

ANNE E. LOPEZ	7609
Attorney General of Hawai‘i	
KIMBERLY T. GUIDRY	7813
EWAN C. RAYNER	10222
KALIKO‘ONĀLANI D. FERNANDES	9964
NICHOLAS M. MCLEAN	10676

Deputy Attorneys General
 Department of the Attorney
 General, State of Hawai‘i
 425 Queen Street
 Honolulu, Hawai‘i 96813
 Tel: (808) 586-1360
 E-mail: kaliko.d.fernandes@hawaii.gov

Attorneys for ANNE E. LOPEZ, in her
 official capacity as Attorney General for the
 State of Hawai‘i

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF HAWAI‘I

NATIONAL ASSOCIATION FOR
 GUN RIGHTS; RONDELLE AYAU;
 JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
 capacity as Attorney General for the
 State of Hawai‘i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

**DEFENDANT ANNE E. LOPEZ’S
 OPPOSITION TO PLAINTIFFS’
 MOTION FOR PRELIMINARY
 INJUNCTION (DKT. 24);
 DECLARATION OF
 KALIKO‘ONĀLANI D.
 FERNANDES; EXHIBITS “1” –
 “9”; CERTIFICATE OF SERVICE**

District Judge: Chief Judge Derrick K.
 Watson

Magistrate Judge: Rom Trader

Hearing: April 7, 2023 at 10:00 a.m.

TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND	3
STANDARD.....	7
ARGUMENT	9
I. Plaintiffs Have Not Demonstrated Likelihood of Success on the Merits.....	9
A. <i>Bruen</i> 's Second Amendment Standard.	9
B. Plaintiffs Have Not Demonstrated that the Challenged Provisions Burden Conduct Covered by the Text of the Second Amendment.	11
1. LCMs Are Not "Arms" Under the Second Amendment.....	12
2. Assault Pistols and LCMs Are Not In Common Use for Self-Defense.	16
a. Assault Pistols and LCMs Are Not Designed For, or Most Suitable For, Self-Defense.	19
b. Neither Assault Pistols Nor LCMs Are In Fact Commonly Used for Self-Defense.	25
C. The Challenged Provisions Are Consistent with the Nation's Historical Tradition of Firearms Regulation.....	27
1. This Case Requires a "More Nuanced" Approach.	28
2. Governments Throughout the Nation's History Have Regulated Unusually Dangerous Weapons and Weapons Associated with Criminal Activity.....	31

3. Hawaii’s Law is Relevantly Similar to the
Historical Analogues.....37

II. Plaintiffs Have Not Satisfied the Other Preliminary Injunction
Factors.....40

CONCLUSION.....45

TABLE OF AUTHORITIES

Cases

Baird v. Bonta,
 No. 2:19-cv-00617-KJM-AC, 2022 WL 17542432,
 (E.D. Cal. Dec. 8, 2022)8-9, 11, 41-42

Brown v. Maryland,
 25 U.S. 419 (1827)32

Caetano v. Massachusetts,
 577 U.S. 411 (2016)18

Coal. of N.J. Sportsmen, Inc. v. Whitman,
 44 F. Supp. 2d 666 (D.N.J. 1999).....44

District of Columbia v. Heller,
 554 U.S. 570 (2008)*passim*

Drakes Bay Oyster Co. v. Jewell,
 747 F.3d 1073 (9th Cir. 2014)8, 41

Duncan v. Bonta,
 19 F.4th 1087, 1096 (9th Cir. 2021)..... 6, 13, 15, 17-18, 22, 23, 24, 37, 38

English v. State,
 35 Tex. 473 (1872)31

Friedman v. City of Highland Park, Ill.,
 784 F.3d 406 (7th Cir. 2015)17, 18

Fyock v. City of Sunnyvale,
 779 F.3d 991 (9th Cir. 2015)23

Garcia v. Google, Inc.,
 786 F.3d 733 (9th Cir. 2015) (en banc)8, 41

Grandinetti v. Hyun,
 Civ. No. 16-00470 DKW-KJM, 2017 WL 239741
 (D. Haw. Jan. 19, 2017)..... 7-8

Grandinetti v. Wes Mun,
 Civ. No. 17-00215 DKW-KJM, 2017 WL 2312474
 (D. Haw. May 26, 2017)..... 7

Haynes v. Tennessee,
 24 Tenn. 120 (1844)35

Heller v. D.C.,
 670 F.3d 1244 (D.C. Cir. 2011).....23

Jackson v. City & Cnty. of S.F.,
 746 F.3d 953 (9th Cir. 2014)..... 15

Kolbe v. Hogan,
 849 F.3d 114 (4th Cir. 2017) (en banc).....*passim*

Maryland v. King,
 567 U.S. 1301 (2012)42

McDonald v. City of Chicago,
 561 U.S. 742 (2010)9, 10, 19

New York State Rifle & Pistol Ass’n v. Bruen,
 142 S. Ct. 2111 (2022)*passim*

O’Neill v. State,
 16 Ala. 65 (1849).....31

Oakland Trib., Inc. v. Chron. Publ’g Co.,
 762 F.2d 1374 (9th Cir. 1985)..... 40-41

Ocean State Tactical, LLC v. Rhode Island,
 No. 22-cv-246, 2022 WL 17721175
 (D.R.I. Dec. 14, 2022) 3, 6, 11, 13, 15, 26, 42, 43

Or. Firearms Fed’n, Inc. v. Brown,
 No. 2:22-cv-01815, 2022 WL 17454829
 (D. Or. Dec. 6, 2022)..... 11, 17, 28, 29, 30, 31, 32, 37, 39, 40

Rupp v. Becerra,
 No. 8:17-CV-00746-JLS-JDE, 2018 WL 2138452
 (C.D. Cal. May 9, 2018).....41, 45

Smith v. Biden,
 No. 1:21-cv-19457, 2021 WL 5195688 (D.N.J. Nov. 8, 2021)41

State v. Lanier,
 71 N.C. 288 (1874).....32

Taylor-Failor v. Cnty. of Haw.,
 90 F. Supp. 3d 1095 (D. Haw. 2015) 8, 44-45

Tracy Rifle & Pistol LLC v. Harris,
 118 F. Supp. 3d 1182 (E.D. Cal. 2015)..... 9-10, 45

United States v. Cox,
 906 F.3d 1170 (10th Cir. 2018)..... 13

United States v. Hasson,
 No. GJH-19-96, 2019 WL 4573424 (D. Md. Sept. 20, 2019)..... 13

United States v. Masciandaro,
 638 F.3d 458 (4th Cir. 2011).....44

United States v. Rowson,
 No. 22-cr-310, 2023 WL 431037 (S.D.N.Y. Jan. 26, 2023).....28

Winter v. Nat. Res. Def. Council, Inc.,
 555 U.S. 7 (2008)7

Wise v. Inslee,
 No. 2:21-cv-0288-TOR. 2021 WL 4591571
 (E.D. Wash. Oct. 25, 2021)41

Worman v. Healey,
 922 F.3d 26 (1st Cir. 2019) 17, 22-23, 26, 38, 44

Hawaii Statutes and Legislative History

Haw. Rev. Stat. § 134-1 3, 4-5

Haw. Rev. Stat. § 134-43

Haw. Rev. Stat. § 134-4(e).....6, 7

Haw. Rev. Stat. § 134-83, 7

Haw. Rev. Stat. § 134-8(a).....4, 6

Haw. Rev. Stat. § 134-8(c)..... 6-7, 13

1992 Haw. Sess. Laws Act 286, at 740-424

H. Stand. Comm. Rep. No. 1261-92, 1992 House Journal, at 1382.....4, 6

Public Safety and Recreational Firearms Use Protection Act,
H.R. Rep. No. 103-489 (May 2, 1994).....3, 5

S. Rep. No. 72-575, at 5-6 (1932).....36

Senate Bill (“S.B.”) No. 18433

Other State Statutes

1783 Mass. Acts 218, ch. 1333

1784 N.Y. Laws 627, ch. 2832

1786 N.H. Laws 383, § 132

1832 Conn. Acts 391, ch. 25, §§ 1-233

1879 Tenn. Pub. Acts 81, *An Act to Preserve the Peace and to Prevent
Homicide*, ch. 90, § 134

California Penal Code sections 25850 11

California Penal Code sections 26350 11

Regulation

Factoring Criteria for Firearms With Attached “Stabilizing Braces,”
88 Fed. Reg. 6478 (Jan. 31, 2023).....25

Other Authorities

Associated Press, *Five Children Killed as Gunman Attacks a
California School*, N.Y. Times, Jan. 18, 1989, at A1,
<https://timesmachine.nytimes.com/timesmachine/1989/01/18/197589.html?pageNumber=1>3

Bureau of Alcohol, Tobacco & Firearms, *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles*, 6 (July 6, 1989), <https://www.atf.gov/file/61761/download>.....4

Bureau of Alcohol, Tobacco, Firearms & Explosives, *Firearms Commerce in the United States: Annual Statistical Update 2021* (2021), <https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download>.....18

Gina Kolata & C.J. Chivers, *Wounds From Military-Style Rifles? ‘A Ghastly Thing to See,’* N.Y. Times, Mar. 4, 2018, <https://www.nytimes.com/2018/03/04/health/parkland-shooting-victims-ar15.html>; *Why do mass shooters choose the AR-15 style rifle?*, 60 Minutes, <https://youtu.be/weG-QtQx2-0>43

Gun Violence Archive, Gun Violence Archive 2023, <https://www.gunviolencearchive.org/>2

<https://www.usmachinegun.com/products.php?cat=13&pg=3>.....4

Matthew Green, *Gun Groups: More Than A Million High-Capacity Magazines Flooded California During Weeklong Ban Suspension*, KQED, Apr. 12, 2019, <https://www.kqed.org/news/11740000/gun-groups-more-than-a-million-high-capacity-magazines-flooded-california-during-weeklong-suspension-of-ban>44

Samuel L. Bray, “Necessary and Proper” and “Cruel and Unusual”: *Hendiadys in the Constitution*, 102 Va. L. Rev. 687, 688-89 (2016)31

Tim Dickinson, *All-American Killer: How the AR-15 Became Mass Shooters’ Weapon of Choice*, Rolling Stone, Feb. 22, 2018, <https://www.rollingstone.com/politics/politics-features/all-american-killer-how-the-ar-15-became-mass-shooters-weapon-of-choice-107819/>21

Violence Policy Center, *Mass Shootings in the United States Involving Large Capacity Ammunition Magazines*, https://vpc.org/fact_sht/VPCshootinglist.pdf.....39

Violence Policy Center, *Where’d They Get Their Guns?*, <https://www.vpc.org/studies/wgun840718.htm>.....3

INTRODUCTION

Hawai‘i law prohibits assault pistols and detachable magazines capable of holding more than ten rounds of ammunition (“large-capacity magazines” or “LCMs”)—military-style weapons and accessories capable of rapidly killing large numbers of people. Plaintiffs ask the Court to preliminarily enjoin these provisions of Hawai‘i law—over 30 years after passage by the Hawai‘i Legislature—on the theory that they will suffer irreparable harm unless the Court permits them to acquire, possess, sell, and transfer assault pistols and LCMs while this case proceeds. Plaintiffs’ request for such extraordinary relief must be denied.

First, Plaintiffs have failed to establish that they are likely to succeed on the merits. The impetus for Plaintiffs’ challenge to Hawaii’s 30-year-old law is presumably the U.S. Supreme Court’s decision in *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022), but *Bruen* did not “decide anything about the kinds of weapons that people may possess,” *id.* at 2157 (Alito, J., concurring). Instead, *Bruen* announced a general Second Amendment standard—requiring a text-and-history analysis—that Plaintiffs plainly do not satisfy. Under that standard, Plaintiffs have the burden of demonstrating that “the Second Amendment’s plain text covers” their proposed conduct, *id.* at 2129-30, but Plaintiffs have made no discernable effort to carry this burden. Nor could they even if they tried. LCMs are not “Arms” protected by the Second Amendment,

and neither LCMs nor assault pistols are in common use for self-defense—the “central component of the Second Amendment right.” *Id.* at 2133 (cleaned up). Even if Plaintiffs had satisfied these textual burdens, moreover, they would fail at *Bruen*’s second step: Defendant has assembled—even at this early stage of the proceedings—a robust record proving that the provisions at issue are “consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 2130.

Plaintiffs have also failed to satisfy the remaining preliminary injunction factors. They have not shown that they will suffer irreparable harm from maintaining the 30-year status quo, which permits them many other options for self-defense while this case proceeds. The balance of the equities and the public interest, moreover, weigh so strongly against preliminary relief that Plaintiffs’ motion could be denied on that basis alone. There have been 71 mass shootings in 2023 thus far¹—and it is only 46 days into the year. Surely after Columbine, Sandy Hook, Pulse Nightclub, Las Vegas, Parkland, Uvalde, and the many other horrifying mass shootings in this country, it is crystal clear why the public would be disserved—and put in harm’s way—by preliminarily enjoining Hawaii’s law restricting easily concealable, military combat-style weapons with an extraordinary

¹ Gun Violence Archive, Gun Violence Archive 2023, <https://www.gunviolencearchive.org/> (last accessed Feb. 15, 2023); *id.*, <https://www.gunviolencearchive.org/methodology> (defining “mass shooting” as “4 or more shot or killed, not including the shooter”).

“capability for lethality—more wounds, more serious, in more victims”²—and the LCMs that permit shooters to fire over ten rounds of ammunition without stopping to reload. “Suffice it to say that in very real terms,” Plaintiffs’ alleged harm “pales in comparison to the unspeakable devastation caused by mass shooters wildly spraying bullets without end into a crowd of bystanders.” *Ocean State Tactical, LLC v. Rhode Island*, No. 22-cv-246, 2022 WL 17721175, at *24 (D.R.I. Dec. 14, 2022). Plaintiffs’ motion must be denied.

BACKGROUND

In 1992, following several deadly mass shootings using semi-automatic weapons—including 21 people killed in a McDonald’s in 1984 in San Ysidro, California,³ and 5 children killed and more than 30 other individuals wounded in 1989 at an elementary school in Stockton, California⁴—the Hawai‘i Legislature passed Senate Bill (“S.B.”) No. 1843 (now codified at HRS §§ 134-1, 134-4, and 134-8) to address semi-automatic firearms with certain accessories and configurations, statutorily defined as “assault pistols,” and detachable ammunition

² Public Safety and Recreational Firearms Use Protection Act, H.R. Rep. No. 103-489 (May 2, 1994).

³ Violence Policy Center, *Where’d They Get Their Guns?*, <https://www.vpc.org/studies/wgun840718.htm> (last accessed Feb. 15, 2023).

⁴ Associated Press, *Five Children Killed as Gunman Attacks a California School*, N.Y. Times, Jan. 18, 1989, at A1, <https://timesmachine.nytimes.com/timesmachine/1989/01/18/197589.html?pageNumber=1>.

magazines with a capacity in excess of ten rounds, often referred to as large-capacity magazines. *See* 1992 Haw. Sess. Laws Act 286, at 740-42. Legislative “[t]estimony indicated that semi-automatic assault pistols are particularly dangerous because they are easily concealed, can fire in rapid succession for sustained periods . . . and often accept large-capacity, detachable ammunition magazines.” H. Stand. Comm. Rep. No. 1261-92, in 1992 House Journal, at 1382.

HRS § 134-8(a), accordingly, prohibits the “manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of . . . assault pistols[.]” “Assault pistol” is defined in HRS § 134-1 as follows:

“Assault pistol” means a semiautomatic pistol that accepts a detachable magazine and has two or more of the following characteristics:

- (1) An ammunition magazine that attaches to the pistol outside of the pistol grip;^[5]
- (2) A threaded barrel capable of accepting a barrel extender, flash suppressor, forward hand grip, or silencer;^[6]

⁵ A pistol grip “can be an aid in one-handed firing of [a] weapon in a combat situation[.]” and “such grips were designed to assist in controlling machineguns during automatic fire.” Bureau of Alcohol, Tobacco & Firearms, *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles*, 6 (July 6, 1989), <https://www.atf.gov/file/61761/download>.

⁶ A threaded barrel is a firearm barrel that is modified or “threaded” on the end to accept certain features, *see* Busse Decl. ¶ 22, like a barrel extender, flash suppressor, forward hand grip, or silencer, *see* HRS § 134-1. A barrel extender is an additional length of barrel that can increase accuracy and dampen recoil during rapid fire. *See* <https://www.usmachinegun.com/products.php?cat=13&pg=3> (last accessed Feb. 15, 2023). A flash suppressor is “designed to help conceal a shooter’s position by dispersing muzzle flash,” *Kolbe v. Hogan*, 849 F.3d 114, 125 (4th Cir. 2017) (en banc), *abrogated on other grounds by Bruen*, 142 S. Ct. 2111,

- (3) A shroud that is attached to or partially or completely encircles the barrel and permits the shooter to hold the firearm with the second hand without being burned;^[7]
- (4) A manufactured weight of fifty ounces or more when the pistol is unloaded;
- (5) A centerfire pistol with an overall length of twelve inches or more;^[8] or
- (6) It is a semiautomatic version of an automatic firearm;^[9]

but does not include a firearm with a barrel sixteen or more inches in length, an antique pistol as defined in this section, or a curio or relic[.]

thus “disguis[ing] the origin of fire and avoid[ing] detection by enemy forces,” Busse Decl. ¶ 20. A forward hand grip “is designed to aid in firearm stabilization during the rapid firing of assault rifles and assault pistols,” and “first gained prominence inside special operations military units where ‘cluttering’ from accessories and extreme heat generated from the rapid firing of rifles were problems for troops in wartime situations.” *Id.* ¶ 19. A silencer is “designed to greatly reduce the sound of a gunshot[.]” *Id.* ¶ 22.

⁷ Because “[g]un barrels become very hot when multiple rounds are fired through them quickly,” a barrel shroud “cools the barrel so that it will not overheat, and provides the shooter with a convenient grip especially suitable for spray-firing.” H.R. Rep. No. 103-489; *see also Kolbe*, 849 F.3d at 125 (same).

⁸ Centerfire firearms are “chambered with centerfire ammunition, which has the primer (the component that ignites the propellant) located in the center of the base of the cartridge case (as opposed to the rim of the cartridge).” Busse Decl. ¶ 10. Centerfire cartridges are “generally much more powerful than rimfire cartridges.” *Id.* “As an example, the .223, which is the most common AR-15 cartridge, fires bullets at more than 3000 feet/second, whereas a rimfire cartridge typically propels bullets at around 1100 feet/second.” *Id.* The “increased centerfire velocity greatly increases the range and lethality of centerfire cartridges.” *Id.*

⁹ An automatic firearm, also known as a machine gun, “fires a continuous stream as long as the trigger is held down, until it has fired all of the cartridges (‘rounds’ or ‘bullets’) in its magazine (or ‘clip’).” H.R. Rep. No. 103-489 at n.20. “A semi-automatic gun fires one round, then loads a new round, each time the trigger is pulled until its magazine is exhausted.” *Id.* Semi-automatic weapons “can be fired at rates of 300 to 500 rounds per minute, making them virtually indistinguishable in practical effect from machineguns.” H.R. Rep. No. 103-489.

Through this features-based definition, the Legislature sought to identify “a list of objective physical characteristics typical of the firearms which represent[] a heightened risk of danger to our community because of their concealability and firepower while having little or no utility for sporting applications.” H. Stand. Comm. Rep. No. 1261-92, in 1992 House Journal, at 1382.¹⁰

LCMs are addressed in HRS § 134-8(c), which prohibits “[t]he manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of detachable ammunition magazines with a capacity in excess of ten rounds which are designed for or capable of use with a pistol[.]”¹¹ This does not apply “to magazines

¹⁰ HRS § 134-8(a)’s prohibition on assault pistols is subject to HRS § 134-4(e), which provides:

After July 1, 1992, no person shall bring or cause to be brought into the State an assault pistol. No assault pistol may be sold or transferred on or after July 1, 1992, to anyone within the State other than to a dealer licensed under section 134-32 or the chief of police of any county except that any person who obtains title by bequest or intestate succession to an assault pistol registered within the State shall, within ninety days, render the weapon permanently inoperable, sell or transfer the weapon to a licensed dealer or the chief of police of any county, or remove the weapon from the State.

¹¹ A magazine “is a vehicle for carrying ammunition[,]” and “can be either integral to the gun or detachable.” *Ocean State*, 2022 WL 17721175, at *4 (cleaned up). “A magazine enables a shooter to fire repeatedly—a number of times up to the ammunition capacity of the magazine—without reloading. Once a magazine is empty, the shooter may continue to fire only after pausing to change magazines or to reload the original magazine.” *Duncan v. Bonta*, 19 F.4th 1087, 1096 (9th Cir. 2021) (en banc), *vacated and remanded on other grounds*, 49 F.4th 1228 (9th Cir. 2022) (en banc). The magazines barred by HRS § 134-8(c) would “thus allow a shooter to fire more than ten rounds without any pause in shooting.” *Id.* at 1097.

originally designed to accept more than ten rounds of ammunition which have been modified to accept no more than ten rounds and which are not capable of being readily restored to a capacity of more than ten rounds.” HRS § 134-8(c).

Plaintiffs here challenge HRS § 134-4(e) and the portions of HRS § 134-8 addressing assault pistols and LCMs, arguing that they violate the Second and Fourteenth Amendments facially “and/or” as applied. Dkt. 21 at PageID # 109 (¶ 41), 110 (¶ 45).¹² On November 18, 2022—73 days after filing their initial Complaint—Plaintiffs filed a motion for preliminary injunction. *See* Dkt. 24.

STANDARD

“A preliminary injunction is an extraordinary remedy never awarded as of right.” *Grandinetti v. Wes Mun*, Civ. No. 17-00215 DKW-KJM, 2017 WL 2312474, at *2 (D. Haw. May 26, 2017) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008)). To obtain a preliminary injunction, a plaintiff must establish “[1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of

¹² Plaintiffs challenge only the portions of HRS § 134-8 that bar the “possession,” “sale,” “transfer,” or “acquisition” of assault pistols and LCMs, and not the portions that bar “manufacture,” “barter,” “trade,” or “gift.” *See* Dkt. 21 at PageID # 104 (“[Plaintiffs Ayau and Bryant] currently desire to acquire, possess, sell and transfer Banned Firearms and Banned Magazines[.]”); *id.* at PageID # 105 (same as to NAGR members); *id.* at PageID # 110 (requesting a declaratory judgment as to “law-abiding adults seeking to acquire, use, transfer, or possess arms that are in common use by the American public for lawful purposes”).

equities tips in his favor, and [4] that an injunction is in the public interest.”

Grandinetti v. Hyun, Civ. No. 16-00470 DKW-KJM, 2017 WL 239741, at *1 (D. Haw. Jan. 19, 2017) (quotation omitted). “When the government is a party, the[] last two factors merge.” *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). “If a plaintiff can only show that there are ‘serious questions going to the merits’—a lesser showing than likelihood of success on the merits—then a preliminary injunction may still issue if the balance of hardships tips *sharply* in the plaintiff’s favor, and the other two [preliminary injunction] factors are satisfied.” *Taylor-Failor v. Cnty. of Haw.*, 90 F. Supp. 3d 1095, 1099 (D. Haw. 2015) (cleaned up). “Regardless of which standard applies, the movant always has the burden of proof on each element of the test.” *Id.* (cleaned up).

Where, as here, a plaintiff effectively seeks a mandatory injunction that would alter the status quo, the burden is “doubly demanding”—such a plaintiff must “establish that the law and facts *clearly favor* [their] position[.]” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (en banc). Mandatory injunctions are “particularly disfavored,” *id.*, and courts “should be extremely cautious about issuing a preliminary injunction” that goes beyond maintaining the status quo, *Tracy Rifle & Pistol LLC v. Harris*, 118 F. Supp. 3d 1182, 1194 (E.D. Cal. 2015).¹³

¹³ See also *Baird v. Bonta*, No. 2:19-cv-00617-KJM-AC, 2022 WL 17542432, at *8 (E.D. Cal. Dec. 8, 2022) (“[W]hen a plaintiff asks to change the status quo rather than preserve it, district courts must exercise greater caution. . . . This case

ARGUMENT

I. Plaintiffs Have Not Demonstrated Likelihood of Success on the Merits.

A. Bruen’s Second Amendment Standard

In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court held that the Second Amendment protects “an individual right to keep and bear arms for self-defense.” *Bruen*, 142 S. Ct. at 2125. Following *Heller*, the courts of appeals “coalesced around a ‘two-step’ framework for analyzing Second Amendment challenges that combine[d] history with means-end scrutiny.” *Id.* In *Bruen*, the Court rejected the two-step approach, explaining that while “[s]tep one of the predominant framework is broadly consistent with *Heller*,” its decisions in *Heller* and *McDonald v. City of Chicago*, 561 U.S. 742 (2010), “do not support applying means-end scrutiny in the Second Amendment context.” *Bruen*, 142 S. Ct. at 2127.

The Court announced that the Second Amendment instead “demands a test rooted in the Second Amendment’s text, as informed by history.” *Id.* Under that test, “[w]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct.” *Id.* at 2129-30. If a plaintiff demonstrates that their conduct is covered by the plain text, “[t]he

began in 2019; California’s current regime had been operative since 2012, so the existing regime is the ‘status quo.’”).

government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 2130.

The Court explained that the historical analysis required if a plaintiff satisfies the initial textual burden “will often involve reasoning by analogy”—in other words, “determining whether a historical regulation is a proper analogue for a distinctly modern firearm regulation” by asking “whether the two regulations are ‘relevantly similar.’” *Id.* at 2132. The Court declined to “provide an exhaustive survey of the features that render regulations relevantly similar under the Second Amendment,” but it did explain that “*Heller* and *McDonald* point toward at least two metrics: how and why the regulations burden a law-abiding citizen’s right to armed self-defense.” *Id.* at 2132-33. Because “individual self-defense is the *central component* of the Second Amendment right,” “whether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified are *central* considerations when engaging in an analogical inquiry.” *Id.* at 2133 (cleaned up).

The Court made clear that the historical analysis is not a “regulatory straightjacket,” and does not require “a modern-day regulation [to be] a dead ringer for historical precursors.” *Id.* “[T]he government [must] identify a well-established and representative historical *analogue*, not a historical *twin*.” *Id.*

The Court also reaffirmed that the Second Amendment is “not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Id.* at 2128 (quoting *Heller*, 554 U.S. at 626); *see also Bruen*, 142 S. Ct. at 2162 (Kavanaugh, J., concurring) (“Properly interpreted, the Second Amendment allows a ‘variety’ of gun regulations.”). And although *Bruen* clarified the Second Amendment standard, it “decide[d] nothing” about “the kinds of weapons that people may possess.” *Id.* at 2157 (Alito, J., concurring).

B. Plaintiffs Have Not Demonstrated that the Challenged Provisions Burden Conduct Covered by the Text of the Second Amendment.

To succeed in a Second Amendment challenge, Plaintiffs must demonstrate that “the Second Amendment’s plain text covers” their proposed conduct—*i.e.*, the possession, sale, transfer, and acquisition of assault pistols and LCMs. *Bruen*, 142 S. Ct. at 2129-30.¹⁴ This requires showing that “the ‘textual elements’ of the

¹⁴ Plaintiffs do not appear to dispute that they bear the burden at the textual stage, and case law makes clear that the burden is theirs. *See, e.g., Ocean State*, 2022 WL 17721175, at *12 (“[I]t is [plaintiffs’] burden to show that large-capacity magazines fall within the purview of the Second Amendment[.]”); *Baird*, 2022 WL 17542432, at *6 (“[F]or the first part of the preliminary injunction test, [plaintiffs] must show they are likely to prove ‘the Second Amendment’s plain text covers’ conduct regulated by California Penal Code sections 25850 and 26350.”); *Or. Firearms Fed’n, Inc. v. Brown*, No. 2:22-cv-01815, 2022 WL 17454829, at *11 (D. Or. Dec. 6, 2022) (“Plaintiffs have not shown that [LCMs] are weapons ‘in common use . . . for lawful purposes like self-defense’ such that they fall within the plain text of the Second Amendment.” (cleaned up)).

Second Amendment’s operative clause—‘the right of the people to keep and bear Arms’—cover the conduct at issue because: (1) the regulated instrument “constitute[s] [a] bearable arm[,]” and (2) the regulated instrument is “in common use” for self-defense. *Id.* at 2128, 2132, 2134 (citation omitted).

Plaintiffs fail to make this showing for both assault pistols and LCMs. Their motion offers the Court no real argument on their textual burden; they simply declare that it has been satisfied, *see* Dkt. 24 at PageID # 123, a plainly insufficient showing for preliminary relief. But even if Plaintiffs attempted to meet their burden at the textual stage, they would not succeed. LCMs are not “Arms,” and neither LCMs nor assault pistols are in common use for self-defense.

3. LCMs Are Not “Arms” Under the Second Amendment.

As the Supreme Court explained in *Heller*, and reaffirmed in *Bruen*, determining whether the Second Amendment’s protections apply requires a “‘textual analysis’ focused on the ‘the normal and ordinary’ meaning of the Second Amendment’s language.” *Bruen*, 142 S. Ct. at 2127 (quoting *Heller*, 554 U.S. at 576-77). And the normal and ordinary meaning of “Arms” in the 18th century “is no different from the meaning today.” *Heller*, 554 U.S. at 581. That is, “Arms” are “weapons of offence, or armour of defence,” or stated differently, “any thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another.” *Id.* (cleaned up).

Neither magazines nor, more specifically, LCMs, are by themselves used as a means of defense or used “in wrath to *cast at or strike* another.” *Ocean State*, 2022 WL 17721175, at *12; *see also Duncan*, 19 F.4th at 1096 (“On its own, a magazine is practically harmless and poses no threat to life or limb[.]”). As such, an LCM is an accessory, not a firearm, nor even an integral part of a firearm.¹⁵ As courts have noted regarding other accessories, such as silencers, LCMs “have no use independent of their attachment to a gun. They do not fire bullets on their own and do not contain a slide, trigger, firing pin, cartridge case, barrel, primer, or gunpowder.” *United States v. Hasson*, No. GJH-19-96, 2019 WL 4573424, at *2 (D. Md. Sept. 20, 2019). Like a silencer, “you can’t hurt anybody with a[n] [LCM] unless you hit them over the head with it.” *Id.*¹⁶

Gun manufacturers themselves view detachable magazines, including LCMs, as “accessories.” Busse Decl. ¶ 30 (“Because a[n] [LCM] is not a required component for a firearm to operate, it is characterized as an accessory by the industry.”). That is consistent with the understanding during the Founding era, when various items of equipment necessary for militia men were commonly referred to as “arms and accoutrements”—and “arms” as a stand-alone term

¹⁵ Because HRS § 134-8(c)’s prohibition extends only to *detachable* magazines, LCMs under Hawai‘i law are, by definition, not possibly integral within a firearm.

¹⁶ *See also United States v. Cox*, 906 F.3d 1170, 1186 (10th Cir. 2018) (“A silencer is a firearm accessory; it’s not a weapon in itself (nor is it ‘armour of defence’). Accordingly, it can’t be a ‘bearable arm’ protected by the Second Amendment.”).

referred to *weapons*, but generally “did not include ammunition or other weapon accessories, including the historical analogue” to magazines, *i.e.*, cartridge boxes and the like.¹⁷ Baron Decl. ¶¶ 10, 34. Rather, these were considered “accoutrements” that, “like the other military equipment (scabbards, belts and so forth) . . . was separate from, and did not include, arms.” *Id.* ¶ 34.

The historical record, then, demonstrates that the term “Arms,” which is the “object” of the Second Amendment, *see Heller*, 554 U.S. at 581, never included the historical analogue of magazines or LCMs. Baron Decl. ¶ 78 (“[T]here is virtually no lexical data that I have found showing that ‘arms’ includes ‘accoutrements,’ ‘cartridge boxes,’ ‘cartouch boxes,’ ‘magazines,’ or any other parts of weapons.”). As such, the term “Arms,” which retains the same meaning today as it did in the Founding era, *Heller*, 554 U.S. at 581, does not include LCMs.

Contrary to Plaintiffs’ suggestion, *see* Dkt. 24 at PageID # 129, the term “Arms” cannot be extended to cover LCMs on the basis that they are necessary to operate a firearm. Unlike ammunition, *see Jackson v. City & Cnty. of S.F.*, 746 F.3d 953, 967-68 (9th Cir. 2014), a firearm can operate without an LCM, *see*

¹⁷ At the time, “[t]he word ‘magazine’ was not typically used to refer to the compartment of a gun containing bullets.” Baron Decl. ¶ 24. Rather, a “magazine” was “a place, often a building or warehouse, to store goods and supplies,” and bullets were instead kept in “cartridge boxes,” “cartridge cases,” or “cartouch boxes.” *Id.*

Ocean State, 2022 WL 17721175, at *12 (“Without bullets, a firearm would be useless. But a firearm can fire bullets without a detachable magazine, and in any event, a firearm does not need a magazine containing more than ten rounds to be useful.”). “[A]ny firearm capable of accepting a detachable magazine holding more than 10 rounds,” moreover, “will also accept a magazine with a maximum capacity of ten rounds or fewer.” Yurgealitis Decl. ¶ 58; *see also* Busse Decl. ¶ 27 (“[T]here is no known firearm that requires a large capacity magazine to function as designed. . . . [A]ll firearms that can accept a large capacity magazine can also accept a magazine that holds fewer rounds and still function precisely as intended.”).¹⁸ For these reasons, Plaintiffs’ argument fails.¹⁹

4. **Assault Pistols and LCMs Are Not In Common Use for Self-Defense.**

Among the “important limitation[s] on the right to keep and carry arms,” is the Second Amendment’s protection only for weapons “‘in common use . . .’ for lawful purposes like self-defense,” *Heller*, 554 U.S. at 624, 627; *see also Bruen*,

¹⁸ Although some firearms are sold with LCMs, “the manufacturers all offer the optional purchase of 10 round or even lower capacity magazines and could easily offer magazines limited to almost any given round count.” Busse Decl. ¶ 27.

¹⁹ This is entirely consistent with the Ninth Circuit’s *en banc* decision in *Duncan*. Although *Duncan* did not directly address whether LCMs are “Arms,” and proceeded on the assumption that they were, the Court found that the ban on LCMs “outlaws no weapon, but only limits the size of the magazine that may be used with firearms.” *Duncan*, 19 F.4th at 1096. That finding “is consistent with finding a magazine an accessory, not itself a firearm.” *Ocean State*, 2022 WL 17721175, at *12 n.25.

142 S. Ct. at 2134 (addressing whether weapons are “‘in common use’ today for self-defense” as part of the Second Amendment’s textual inquiry).

Plaintiffs acknowledge this requirement in their Complaint, *see* Dkt. 21 at PageID # 105, 107, but the Complaint’s efforts to address it distort the relevant analysis.²⁰ Plaintiffs reduce the “in common use” inquiry to “own[ership,]” “possess[ion,]” and even mere “existence[,]” *id.* at PageID # 105-08, but whether a weapon is in “common *use*,” by its plain terms, cannot turn only on whether the weapon *exists*, or whether the weapon is commonly *owned* or *possessed*. Each of those generally must be true for a weapon to be commonly used—a weapon that does not exist, for example, cannot be commonly used. But determining whether a weapon is in common use for self-defense requires more than simply counting up how many units have been manufactured, bought, or sold; it requires considering the *suitability* of the weapon for self-defense and the *actual use* of the weapon for self-defense. *See, e.g., Bruen*, 142 S. Ct. at 2132 (“[T]he Second Amendment’s definition of ‘arms’ . . . covers modern instruments that *facilitate armed self-defense*.” (emphasis added)); *id.* at 2142 (referring to “the right to publicly bear arms *suited for self-defense*” (emphasis added)). *Heller* itself followed this

²⁰ Plaintiffs’ preliminary injunction motion—in which Plaintiffs must show that they are likely to succeed on the merits—fails to offer any real analysis of the textual questions included in the Second Amendment inquiry, including whether LCMs and assault pistols are “in common use” for self-defense.

approach by exploring the “*reasons* that a citizen may prefer a handgun for home defense[.]” 554 U.S. at 629 (emphasis added);²¹ *see also* *Duncan*, 19 F.4th at 1127 (Berzon, J., concurring) (“*Heller* focused not just on the prevalence of a weapon, but on the primary use or purpose of that weapon.”); *Brown*, 2022 WL 17454829, at *10 n.13 (“The Second Amendment . . . requires a court to not only consider the prevalence of a particular firearm, but also the nature of that firearm’s use among civilians.”).

Equating common use with common possession or common ownership, as Plaintiffs suggest, makes little sense. Numerous courts have agreed. *See, e.g.,* *Worman v. Healey*, 922 F.3d 26, 35 n.5 (1st Cir. 2019) (explaining that “measuring ‘common use’ by the sheer number of weapons lawfully owned is somewhat illogical”); *Kolbe*, 849 F.3d at 142 (“[T]he *Heller* majority said nothing to confirm that it was sponsoring the popularity test.”); *Friedman v. City of Highland Park*, 784 F.3d 406, 409 (7th Cir. 2015) (“[R]elying on how common a weapon is at the time of litigation would be circular to boot. . . . [I]t would be absurd to say that the reason why a particular weapon can be banned is that there is a statute banning it, so that it isn’t commonly owned.”); *see also* *Duncan*, 19 F.4th at 1126 (Berzon, J.,

²¹ “It is easier to store in a location that is readily accessible in an emergency; it cannot easily be redirected or wrestled away by an attacker; it is easier to use for those without the upper-body strength to lift and aim a long gun; it can be pointed at a burglar with one hand while the other hand dials the police.” *Id.*

concurring) (agreeing with the Seventh Circuit and noting that “[t]o regard an arms-related device’s popularity as the source of its own constitutionality is no less circular” (cleaned up)).

Heller itself indicates that weapons “most useful in military service . . . may be banned” regardless of popularity, demonstrating that popularity is not determinative. 554 U.S. at 627. The example of machine guns is illustrative: although there are over 700,000 registered machine guns in the U.S.²²—more than the approximately 200,000 stun guns cited in Justice Alito’s concurrence in *Caetano v. Massachusetts*, 577 U.S. 411, 420 (2016)—the Court indicated that they are not protected because they are not “in common use.” *Heller*, 554 U.S. at 624. The Court, in fact, considered a reading of the Second Amendment that could render “the National Firearms Act’s restrictions on machineguns . . . unconstitutional” to be “startling[.]” *Id.*²³

A “popularity” test, moreover, would effectively give weapons manufacturers the keys to the constitutional kingdom. *See Kolbe*, 849 F.3d at 141 (explaining that a weapon “would need only be flooded on the market prior to any

²² Bureau of Alcohol, Tobacco, Firearms & Explosives, *Firearms Commerce in the United States: Annual Statistical Update 2021*, at 16 (2021), <https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download>.

²³ *Friedman*, 784 F.3d at 408 (“During Prohibition the Thompson submachine gun (the ‘Tommy gun’) was all too common in Chicago, but that popularity didn’t give it a constitutional immunity from the federal prohibition enacted in 1934.”).

governmental prohibition in order to ensure it constitutional protection”). It would also allow the policy choices of one state to limit the options available to other states, contrary to the Supreme Court’s assurance that the Second Amendment “by no means eliminates” the States’ “ability to devise solutions to social problems that suit local needs and values.” *McDonald*, 561 U.S. at 785.

a. Assault Pistols and LCMs Are Not Designed For, or Most Suitable For, Self-Defense.

Neither assault pistols nor LCMs are designed for, or well-suited to, self-defense.²⁴ Rather, they are military-style weapons and accessories designed for offensive use—precisely what *Heller* established may be prohibited. *See Heller*, 554 U.S. at 627 (noting that “weapons that are most useful in military service—M-16 rifles and the like—may be banned”).

The assault pistols prohibited under Hawai‘i law—particularly AR- and AK-based pistols—“are direct developmental descendants” of military weapons “designed for use in combat.” Yurgealitis Decl. ¶ 80. AR-15 pistols in particular—the most commonly sold assault pistols in the U.S.—are progeny of the Armalite Rifle (AR) model 15 rifle, developed for the U.S. military in the 1950s and later designated the M-16. Busse Decl. ¶ 33; Yurgealitis Decl. ¶¶ 27, 29-30. Field evaluations conducted in Vietnam revealed the M-16’s (then the AR-

²⁴ The Court need only reach this argument as to LCMs if it finds that LCMs are “Arms” under the Second Amendment.

15) extraordinary lethality: in one instance, “[o]ne round in the head” reportedly “took it completely off,” and in another instance, opponents were “instantaneous[ly]” killed by, for example, a stomach wound that “caused the abdominal cavity to explode[.]” Yurgealitis Decl. ¶ 28.

The AR-15 rifles of today are the civilian versions of the M-16. They differ from the M-16 only in that the AR-15 is semi-automatic, while the M-16 is select-fire, meaning that it is capable of firing in fully automatic or semi-automatic mode. Yurgealitis Decl. ¶ 12; Busse Decl. ¶ 14. That does not mean, however, that the AR-15 is less lethal. Soldiers are often trained to use semi-automatic fire “because it is more accurate and lethal than automatic fire” in combat, *Kolbe*, 849 F.3d at 125, as it allows “targeting of specific human targets with repeated accurate shots rather than inaccurate, indiscriminate ‘spray.’” Busse Decl. ¶ 36.

AR-15 pistols are essentially shortened, more easily concealable AR-15 rifles. Busse Decl. ¶¶ 11-12. They are “near direct copies” of AR-15 rifles²⁵ that can have the “same performance characteristics” as the M-16. Busse Decl. ¶ 11; Yurgealitis Decl. ¶ 80. Like the M-16 and the AR-15 rifle, the assault pistols regulated under Hawai‘i law are “unquestionably most useful in military service.”

²⁵ The two notable differences are: (1) a barrel under 16 inches, “which means the gun in rifle form would be deemed illegal under the 1934 [National Firearms Act] which regulates ‘SBRs’ or ‘Short Barreled Rifles,’” and (2) the lack of a rear stock, which is “the portion of a rifle used to stabilize the firearm[] against a shoulder while firing” and would, if present, render the firearm a rifle. Busse Decl. ¶ 11.

Kolbe, 849 F.3d at 137. The features that qualify a weapon as an assault pistol serve military functions and are characteristic of offensive use, not self-defense.²⁶ See, e.g., Busse Decl. ¶¶ 16-20; H.R. Rep. No. 103-489; *Kolbe*, 849 F.3d at 137 (“The very features that qualify a firearm as a banned assault weapon—such as flash suppressors, barrel shrouds, folding and telescoping stocks, pistol grips, . . . and the ability to accept bayonets and large-capacity magazines—‘serve specific, combat-functional ends.’”).

Similarly, LCMs were “not initially designed or intended for the civilian marketplace” and “can be traced directly to a military heritage.” Yurgealitis Decl. ¶ 59. When the AR-15 was first manufactured for the military, for example, it was issued with a twenty-round magazine even though the “civilianized” semi-automatic version was sold only with two five-round magazines. Yurgealitis Decl. ¶ 60; see also Busse Decl. ¶ 32 (noting that the AR-15 was designed to satisfy “clearly stated military requirements,” including that it be “high-capacity-

²⁶ This is consistent with the way the firearms industry markets AR-15 style weapons. See, e.g., Busse Decl. ¶ 47 (noting that “marketing within the firearms industry admits to, and capitalizes on, the AR-15-style weapons as a military weapon,” and citing as an example an ad picturing a soldier and an assault weapon along with the slogan, “USE WHAT THEY USE”); Tim Dickinson, *All-American Killer: How the AR-15 Became Mass Shooters’ Weapon of Choice*, Rolling Stone, Feb. 22, 2018, <https://www.rollingstone.com/politics/politics-features/all-american-killer-how-the-ar-15-became-mass-shooters-weapon-of-choice-107819/> (“[C]onsumer gun marketing played up the battlefield appeal of these weapons, including tag lines such as: ‘The closest you can get without having to enlist.’”).

capable”); *Duncan*, 19 F.4th at 1102 (LCMs “have limited lawful, civilian benefits, whereas they provide significant benefits in a military setting”); *Kolbe*, 849 F.3d at 137 (LCMs “are particularly designed and most suitable for military and law enforcement applications” (quotation marks omitted)).

While LCMs and assault pistols may be well-suited to “achieve their principal purpose—‘killing or disabling the enemy’ on the battlefield,” *id.* at 125, neither are suitable for self-defense. Assault pistols, as defined under Hawai‘i law, are “a poor choice” for this purpose. Yurgealitis Decl. ¶¶ 71, 79. “Projectiles travelling at velocities found in AK & AR pistols pose a serious risk of over-penetration in most home construction materials,” *id.* ¶ 73, threatening the safety of family members, neighbors, and other bystanders. *See Worman*, 922 F.3d at 37 (semi-automatic assault weapons “can fire through walls, risking the lives of those in nearby apartments or on the street”); *Kolbe*, 849 F.3d at 127 (“[A]ssault weapons further pose a heightened risk to civilians in that ‘rounds from assault weapons have the ability to easily penetrate most materials used in standard home construction, car doors, and similar materials.’”). This is not surprising given that “[a]ssault weapons were designed to be effective at battlefield ranges of up to 500 yards,” not the “dozens of feet” typical of self-defense situations. Yurgealitis Decl. ¶ 73. Simply put, “wielding [assault] weapons for self-defense within the

home is tantamount to using a sledgehammer to crack open the shell of a peanut.”

Worman, 922 F.3d at 37.

The assault pistols prohibited under Hawai‘i law also generally “require two hands to effectively aim and shoot,” Yurgealitis Decl. ¶ 79, unlike the handguns *Heller* identified as the “quintessential self-defense weapon.” *Heller*, 554 U.S. at 629 (noting, among the “reasons that a citizen may prefer a handgun for home defense,” that “it can be pointed at a burglar with one hand while the other hand dials the police”); *see also* Yurgealitis Decl. ¶ 79 (the need for two hands to effectively operate an assault pistol “would also preclude the homeowner from utilizing their ‘non gun hand’ to pick up or guide a small child or vulnerable / handicapped adult”). These features render assault pistols ill-suited to self-defense. *See Kolbe*, 849 F.3d at 127 (“The State has . . . underscored the lack of evidence that the banned assault weapons . . . are well-suited to self-defense.”).

LCMs, too, are “dangerous in self-defense situations because ‘the tendency is for defenders to keep firing until all bullets have been expended, which poses grave risks to others in the household, passersby, and bystanders.’” *Heller v. D.C.*, 670 F.3d 1244, 1263-64 (D.C. Cir. 2011); *see also Duncan*, 19 F.4th at 1105 (“[T]he use of [LCMs] results in more gunshots fired, results in more gunshot wounds per victim, and increases the lethality of gunshot injuries.” (quoting *Fyock v. City of Sunnyvale*, 779 F.3d 991, 1000 (9th Cir. 2015))). The increased killing

capacity of LCMs is unnecessary for self-defense because “[h]ome defense and / or self-defense situations are rarely, if ever, lengthy shootouts at long ranges with extensive exchanges of gunfire.” Yurgealitis Decl. ¶ 73. As such, it is extremely rare for an individual to need to fire more than 10 rounds for defensive purposes. *See Duncan*, 19 F.4th at 1105 (“[T]he record here, as in other cases, does not disclose whether the added benefit of a[n] [LCM]—being able to fire more than ten bullets in rapid succession—has *ever* been realized in self-defense in the home.”); *id.* at 1104 (noting that “[e]xperts in this case and other cases report that ‘most homeowners only use two to three rounds of ammunition in self-defense,’” and concluding that the necessity of firing “more than ten bullets in defense of the home is ‘rare,’ or non-existent” (citation omitted)).

And, finally, the dangers of using military equipment like assault weapons and LCMs for self-defense are only amplified when the two are used together. *See Colwell Decl.* ¶ 12 (“Assault weapons, especially when equipped with large capacity magazines that can hold 30, 50, or even 100 rounds of ammunition, can fire more shots without reloading, causing more injuries per victim (and thus more complications), and many of the most devastating injuries I have managed in my over 25 years of experience treating gunshot wound victims.”).

Thus, assault pistols and LCMs are precisely the type of military combat-style equipment designed for offensive use that *Heller* established may be

prohibited. *See Heller*, 554 U.S. at 627; *see also Kolbe*, 849 F.3d at 137 (“Because the banned assault weapons and [LCMs] are clearly most useful in military service, we are compelled by *Heller* to recognize that those weapons and magazines are not constitutionally protected.”).

b. Neither Assault Pistols Nor LCMs Are In Fact Commonly Used for Self-Defense.

Plaintiffs also make no effort to demonstrate that either assault pistols²⁷ or LCMs²⁸ are actually commonly used for self-defense. This is fatal to their motion.

²⁷ The most Plaintiffs offer regarding assault pistols is their Complaint’s assertion that because an estimated three million “stabilizing braces” have been sold since 2013, that means “at least three million AR-15 pistols or similar firearms are in existence,” which “meets the ‘commonly held’ standard.” Dkt. 21 at PageID # 106 (¶ 32). The first problem with this argument is its misidentification of the proper standard. To warrant Second Amendment protection, a weapon must be commonly *used* for self-defense, not simply “commonly held.” The second problem is Plaintiffs’ faulty logic. For starters, Plaintiffs do not explain why there would be a connection between the number of stabilizing braces sold, and the number of assault pistols “in existence.” And even if Plaintiffs are instead trying to connect the number of stabilizing braces sold to an alleged number of assault pistols *possessed*, the connection is flawed given that individuals could own more stabilizing braces than they do assault pistols. Moreover, as the ATF has noted, the same person is likely to own “more than one ‘stabilizing brace’ or firearm with an attached ‘stabilizing brace.’” Factoring Criteria for Firearms With Attached “Stabilizing Braces,” 88 Fed. Reg. 6478, 6560 (Jan. 31, 2023).

²⁸ The most Plaintiffs offer regarding LCMs is their vague assertion that “millions and millions of Americans” own LCMs because LCMs “come standard with many of the most popular handguns and long guns on the market, and Americans own roughly 115 million of them.” Dkt. 21 at PageID # 107 (¶ 37). This, too, is faulty logic. The number of firearms that “come standard” with LCMs is not determinative of the number of LCMs in use because even for those firearms, “the manufacturers all offer the optional purchase of 10 round or even lower capacity magazines and could easily offer magazines limited to almost any given round

See Worman, 922 F.3d at 37 (“Equally as important is what the record does not show: it offers no indication that the proscribed weapons have commonly been used for home self-defense purposes.”). And this is far from the first case in which plaintiffs have failed to demonstrate that assault weapons and LCMs are commonly used for self-defense. *See, e.g., Ocean State*, 2022 WL 17721175, at *14 (“There is simply no credible evidence in the record to support the plaintiffs’ assertion that LCMs are weapons of self-defense[.]”); *Worman*, 922 F.3d at 37 (“[W]hen asked directly, not one of the plaintiffs or their six experts could identify even a single example of the use of an assault weapon for home self-defense, nor could they identify even a single example of a self-defense episode in which ten or more shots were fired.”); *Kolbe*, 849 F.3d at 127 (“Neither the plaintiffs nor Maryland law enforcement officials could identify a single incident in which a Marylander has used a military-style rifle. . . or needed to fire more than ten rounds, to protect herself.”).

Plaintiffs here and in other cases cannot make this showing because self-defense does not call for weapons and instruments designed for military combat. Accordingly, the typical and best-suited arms for self-defense are not assault

count.” Busse Decl. ¶ 27. Plaintiffs’ allegations do not take into account that many of the firearms that “come standard” with LCMs are likely being used *without* LCMs.

pistols or weapons equipped with LCMs, but rather handguns or shotguns without LCMs. *See* Busse Decl. ¶ 29; *see also* Yurgealitis Decl. ¶¶ 71-79.

For these reasons, Plaintiffs fail to demonstrate that assault pistols and LCMs fall within the plain text of the Second Amendment. Neither are designed for or well-suited to self-defense, and there is no evidence establishing that they are actually used for self-defense. To the contrary, assault pistols and LCMs are offensive instruments “most useful in military service—M-16 rifles and the like” that *Heller* explicitly establishes “may be banned.” 554 U.S. at 627; *accord Kolbe*, 849 F.3d at 135.

C. The Challenged Provisions Are Consistent with the Nation’s Historical Tradition of Firearms Regulation.

Even if Plaintiffs had met their textual burden, their Second Amendment challenge would fail. Throughout history, state and local governments have regularly enacted restrictions on certain weapons, weapon features, and accessories viewed to be particularly dangerous or associated with criminal activity. These laws are relevantly similar to Hawaii’s law: by restricting weapons and devices unsuitable for self-defense while permitting more suitable alternatives, Hawaii’s law imposes a comparably minor, and comparably justified, burden on the right to armed self-defense.

1. This Case Requires a “More Nuanced” Approach.

Bruen establishes that “cases implicating unprecedented societal concerns or dramatic technological changes may require a more nuanced approach” to the historical inquiry. 142 S. Ct. at 2132. That is the case here. Hawaii’s law addresses a dramatic technological change: the development of semi-automatic weapons and extended magazines. And it responds to an unprecedented societal concern: mass shootings. As a result, the Court should conduct “a broader search for historical analogies.” *United States v. Rowson*, No. 22-cr-310, 2023 WL 431037, at *24 (S.D.N.Y. Jan. 26, 2023).

Modern society has produced “a bewildering assortment of firearms whose lethality would have been almost unimaginable to the Founding generation,” Cornell Decl. ¶ 30, and that includes modern semi-automatic firearms and LCMs.

The muskets and fowling pieces available to citizens during the colonial and Founding eras could not fire multiple shots without reloading, and had numerous other limitations that severely restricted their use as murder weapons. *See* Roth Decl. ¶ 16; Cornell Decl. ¶¶ 24-25. Multi-shot weapons were curiosities until the late 19th century. Firearms capable of firing more than 10 rounds, such as the Puckle Gun patented in 1718 in London, the Jennings introduced in 1821 in New York, and the Girandoni developed in Austria, were “experimental, designed for military use, rare, defective, or some combination of these features.” *Brown*, 2022

WL 17454829, at *12 & n.17; *see* Spitzer Decl. ¶¶ 38-41; *see also id.* ¶ 36 (“The guns of 1830 were essentially what they had been in 1430: single metal tubes or barrels stuffed with combustible powder and projectiles.”).

The multi-shot weapons that emerged in the late 19th century (such as the Colt, Winchester, and Henry), were not comparable to the semi-automatic weapons of today. They were not semi-automatic or capable of rapid fire, and they were not widely used by civilians. Instead, they were intended for military use. Spitzer Decl. ¶¶ 44-48. Semi-automatic and automatic weapons capable of rapid fire and reloading only became commercially available to citizens after World War I, with the development of weapons like the Thompson submachine gun. *Id.* ¶¶ 13, 49; Roth Decl. ¶¶ 44-46.

Assault weapons are a purely modern phenomenon. The first assault rifle was not developed until World War II. Yurgealitis Decl. ¶ 20. The AR-15 (later the M-16) was not designed until the mid-1950s, and even then, was designed solely for military use. *Id.* ¶ 27. AR-15s did not begin to sell in significant numbers among the civilian public until the late 2000s—particularly after the 2012 Sandy Hook Elementary shooting. Busse Decl. ¶14. LCMs, too, are a modern phenomenon with military roots—part and parcel of the dramatic change in commercially available weapons technology. Yurgealitis Decl. ¶¶ 59-60; Busse Decl. ¶ 40.

The AR-15 and other modern assault weapons—especially when equipped with LCMs—are extraordinarily lethal, far beyond what was conceivable at the Founding, or even in the early 20th century. *See, e.g.*, Cornell Decl. ¶ 28; Busse Decl. ¶¶ 10, 44-45; Roth Decl. ¶¶ 12, 53 (“The danger these firearms pose is intrinsically different from past weaponry.”). And this dramatically increased lethality has contributed to a modern crisis of mass shootings unparalleled in the Nation’s history. *See Brown*, 2022 WL 17454829, at *12-13. During the Founding era, homicide rates were low, and “[g]uns were not the weapons of choice in homicides that grew out of the tensions of daily life” because of the practical limitations of the heavy, single-shot manually loaded firearms of the time. Roth Decl. ¶¶ 14-17; Cornell Decl. ¶ 26. As a result, the Founding generation was never confronted with the kind of gun violence that plagues modern America. Cornell Decl. ¶ 27; *see* Roth Decl. ¶ 41.

In fact, from 1776 to 1949, there were no mass shootings involving ten or more fatalities. Klarevas Decl. ¶¶ 17. After the first such mass shooting in 1949, a few others occurred from the mid-1960s to early-1980s, but after a spike in the 1980s, the federal assault weapons and LCM ban slowed the trend. *Id.* ¶¶ 18 & Table 6, Figures 9 & 10, 19-21. Since that law expired in 2004, however, there have been at least 20 mass shootings with double-digit fatalities, *id.* ¶ 20, and that number continues to climb. Because high-fatality mass shootings are strongly

correlated with assault weapons and LCMs, and mass shootings involving assault weapons and/or LCMs result in a substantially higher loss of life, assault weapons and LCMs pose an extraordinary threat to the safety of American society—a threat that did not exist in 1791 or 1868. Klarevas Decl. ¶¶ 10, 12.

This case, therefore, implicates “unprecedented societal concerns” and “dramatic technological changes,” warranting a “more nuanced approach” to the search for historical analogues. *Bruen*, 142 S. Ct. at 2132.

2. Governments Throughout the Nation’s History Have Regulated Unusually Dangerous Weapons and Weapons Associated with Criminal Activity.

The Nation’s history makes clear that governments may regulate the “dangerous and unusual weapons” of the day.²⁹ *Bruen*, 142 S. Ct. at 2128 (quoting *Heller*, 554 U.S. at 627); *see, e.g., Brown*, 2022 WL 17454829, at *12-14 & n.20 (LCM ban “consistent with the Nation’s historical tradition of firearm regulation”

²⁹ *Heller* referred to both “dangerous *and* unusual weapons” and “dangerous *or* unusual weapons.” 554 U.S. at 623, 627. There are notable historical references—including by Blackstone—to “dangerous *or* unusual weapons.” *See* Cornell Decl. ¶ 9 & n. 9; *see also O’Neill v. State*, 16 Ala. 65, 67 (1849); *State v. Lanier*, 71 N.C. 288, 289 (1874); *English v. State*, 35 Tex. 473, 476 (1872). It is “also possible that the phrase was an example of an archaic grammatical and rhetorical form hendiadys,” Cornell Decl. ¶ 9 & n.9, “in which two terms separated by a conjunction work together as a single complex expression,” and “their meanings are melded”—here, meaning an unusually dangerous weapon. Samuel L. Bray, “*Necessary and Proper*” and “*Cruel and Unusual*”: *Hendiadys in the Constitution*, 102 Va. L. Rev. 687, 688-89 (2016).

given historical regulations on “Bowie knives, blunt weapons, slungshots, and trap guns”). Indeed, “new technologies bred new laws,” Cornell Decl. ¶ 63; *see* Spitzer Decl. ¶¶ 8, 11, and Hawaii’s law restricting assault pistols and LCMs fits squarely within that tradition; it is “part of a pattern in America’s history of legislative restrictions on particular weapons stretching back centuries.” Spitzer Decl. ¶ 11.

Clubs and Blunt Objects. The first restrictions on weapons used for criminality, rather than self-defense, were restrictions on clubs and other blunt instruments. Prior to the Founding, and as early as 1664, states enacted regulations banning or restricting the carry of clubs, including bludgeons, billy clubs, slungshots, and sand clubs. Spitzer Decl. ¶¶ 75-82. Restrictions of slungshots, for example, arose mainly in the 1800s, in response to their frequent use by criminals and gang members. *Id.* ¶ 79. By the 19th century, every state in the Nation had such blunt-weapon restrictions. *Id.* ¶¶ 75-82 & Ex. C.

Gunpowder. In the early republic, states and localities played a role in regulating “every aspect of the manufacture, sale, and storage” of gun powder. Cornell Decl. ¶ 44. These regulations were meant to protect public safety—a traditional part of the States’ police power retained after ratification of the Constitution. *Id.* ¶¶ 42-43; *Brown v. Maryland*, 25 U.S. 419, 443 (1827). New York and New Hampshire, for example, limited the amount of gunpowder a citizen could store in his home. 1784 N.Y. Laws 627, ch. 28; 1786 N.H. Laws 383, § 1.

Massachusetts forbade any person to “take into any Dwelling-House, Stable, Barn, Out-House, Warehouse, Store, Shop, or other Building, within the Town of Boston, any ... Fire-arm, loaded with, or having Gun-Powder.” 1783 Mass. Acts 218, ch. 13. Other states, like Connecticut, went further, allowing local officials to determine whether the “quantity of gun powder” in possession of a private citizen “may endanger the persons or dwellings of any individuals whatsoever.” 1832 Conn. Acts 391, ch. 25, §§ 1-2. If so, officials could order the owner to move their gun powder. *Id.*

Trap Guns. As weapons technology became more advanced, legislatures began to target specific types of dangerous or concealable weapons, used more often for criminal activity than self-defense, including the trap gun. Designed to protect residences or businesses while the owner was absent, trap guns were rigged to fire remotely, typically by a string or wire that caused the firearm to discharge when tripped. Spitzer Decl. ¶ 84. While designed to defend property from trespassers, the nature of trap guns made it impossible to distinguish between criminals and innocent individuals, shifting public opinion against these weapons. *Id.* ¶ 85. As early as 1771, states began to ban or restrict the use of trap guns. *Id.* ¶¶ 84, 87. In all, 16 states enacted trap gun laws from the late 18th century through the 20th century. *Id.* ¶ 87 & Exs. B, F.

Concealable Weapons. In the 19th century, technological development in firearms and knives continued to increase—as did murder rates. Roth Decl. ¶¶ 23-24, 28-34. In response, states further regulated weapons that were particularly dangerous and susceptible to criminal activity. Cornell Decl. ¶ 32; Spitzer Decl. ¶¶ 71-72, 74. Many of these regulations focused on restricting access to weapons—including pistols—that were easily concealable. For example, technological advances in the 1820s allowed for the development of so-called pocket pistols, which were designed to be easily hidden in a coat or pocket. Roth Decl. ¶¶ 24-27; Spitzer Decl. ¶ 82. Tennessee, for example, prohibited “any person to sell, or offer to sell, or bring into the State for the purpose of selling, giving away, or otherwise disposing of, belt or pocket pistols, or revolvers, or any other kind of pistol, except army or navy pistols.” 1879 Tenn. Pub. Acts 81, *An Act to Preserve the Peace and to Prevent Homicide*, ch. 90, § 1; Cornell Decl. ¶ 34, n.67; Roth Decl. ¶ 36, n.82. Multi-shot revolvers, which allowed for reloading via individual cartridges, were similarly regulated following the Civil War. Criminals increasingly used these more efficient revolvers “in interpersonal assaults.” Roth Decl. ¶ 34. As a result, many states began regulating multi-shot revolvers, often by amending prior regulations focused on concealable pistols. *Id.* ¶¶ 35-40; Spitzer Decl. ¶ 49.

Bowie Knives. In addition to regulations on concealable firearms, many states imposed restrictions on Bowie knives. Spitzer Decl. ¶¶ 63-72; Roth Decl. ¶¶

25-26. Bowie knives have a long blade and hand guard, specifically designed for fighting, and were used frequently in duels and other criminal activities in the 19th century. Spitzer Decl. ¶ 64. Forty-nine states and D.C. restricted the use of these weapons; 15 states banned individuals from carrying them in public. Spitzer Decl. ¶ 71, Ex. H. In upholding a conviction for carrying a Bowie knife, the Tennessee Supreme Court remarked that “[t]he design, meaning, and intent [of the restriction] was to guard against the destruction of human life, by prohibiting [weapons] the only use of which is to kill.” Spitzer Decl. ¶ 67 (quoting *Haynes v. Tennessee*, 24 Tenn. 120, 123 (1844)).

Semi-Automatic and Automatic Weapons and LCMs. In the 20th century, the advent of automatic and semi-automatic weapons created—for the first time—concern with mass shootings perpetrated by one shooter. As these new technologies of unprecedented lethality “began to spread in civil society and be used for criminal or other dangerous purposes,” regulations followed. Spitzer Decl. ¶ 20. The first fully automatic machine gun was developed during World War I to create devastation on the battlefield. *Id.* ¶ 12. Then a lighter, handheld machine gun—the Tommy gun—was invented and quickly became a preferred tool for criminals. *Id.* ¶ 13. The threat of violence posed by these newly accessible machine guns caused state legislatures to quickly enact laws restricting them.

Between 1925 and 1934, at least 32 states enacted laws targeting automatic and semi-automatic weapons. Spitzer Decl. ¶ 23, Exs. B, D.

In 1928, the National Conference of Commissioners on Uniform State Laws published a model law prohibiting possession of “any firearm which shoots more than twelve shots semi-automatically without reloading.” Spitzer Decl. ¶ 22. In 1932, Congress banned certain automatic and semiautomatic weapons—“any firearm which shoots automatically or semiautomatically more than twelve shots without reloading”—in D.C. *Id.* ¶ 23. The NRA endorsed D.C.’s ban and suggested it could be “used as a guide throughout the states of the Union.” *Id.* (quoting S. Rep. No. 72-575, at 5-6 (1932)). With D.C., as many as 10 other states enacted new laws restricting automatic and semi-automatic weapons. *Id.* ¶ 28, Exs. B, D. And in 1934, Congress enacted the National Firearms Act, which heavily regulates automatic weapons.³⁰ *Id.* ¶ 24; Roth Decl. ¶ 47.

During the same period, at least 23 states restricted ammunition magazines or round capacity. Spitzer Decl. ¶¶ 30-32, Table 1. Ten states and D.C. regulated semi-automatic and fully automatic weapons. *Id.* ¶ 31, n.43, Ex. D. Eleven states regulated only fully automatic weapons, but defined the regulation by the number of rounds that could be fired without reloading or the ability to use ammunition

³⁰ The National Firearms Act imposed similar restrictions on other weapons that were frequently used in criminality but had no legitimate self-defense purpose, such as sawed-off shotguns and silencers. Spitzer Decl. ¶ 24.

feeding devices. *Id.* ¶ 31, n.44., Ex. D. And 4 states restricted all firearms capable of receiving ammunition or round feeding mechanisms and firing them continuously. *Id.* ¶ 31, n.45, Ex. D. These bans on automatic and semi-automatic weapons were the latest iteration of a historical tradition of restricting unusually dangerous weapons not well-suited, or frequently used, for self-defense. *See Heller*, 554 U.S. at 627; *Duncan*, 19 F.4th at 1122 (Berzon, J., concurring).

In sum, these earlier restrictions disallowed certain weapons with particularly dangerous features or unique lethality, while leaving other arms available for self-defense. Hawaii’s law falls well within this tradition.

3. Hawaii’s Law is Relevantly Similar to the Historical Analogues.

Hawaii’s restrictions on assault pistols and LCMs impose a minimal burden on the right of armed self-defense that is comparable to, or even lesser than, the burdens imposed by the historical analogues above. *See Brown*, 2022 WL 17454829, at *14 (LCM prohibition imposed “minimal” burden and “d[id] not impose a greater burden on the right to self-defense than did analogous historical regulations”); *see also Duncan*, 19 F.4th at 1104 (LCM prohibition “impose[d] only a minimal burden on . . . the Second Amendment right”).³¹

³¹ Despite Plaintiffs’ efforts to paint Hawaii’s law as a “blanket prohibition on two classes of arms,” *see* Dkt. No. 24 at PageID # 123, the challenged provisions do not, in fact, ban any “entire class of arms” at all. Hawai‘i law prohibits only a subset of arms and magazines, *i.e.*, only “magazines of a particular capacity[] and

The gunpowder laws enacted by states in the early Republic similarly affected the right of self-defense by preventing the keeping of loaded guns or limiting where and how much gunpowder could be kept in the home. *See* Cornell Decl. ¶¶ 42-44. Indeed, gunpowder laws imposed a greater burden than the LCM prohibition because, unlike Hawaii’s law, they restricted the total amount of ammunition an individual could own or access. And Hawaii’s law is likewise similar to the sweeping regulations restricting the carrying and at times the sale and possession of concealable weapons like Bowie Knives and pocket pistols, as well as the restrictions on blunt weapons and trap guns. These regulations, which date back to the Founding, have served to protect the public from highly dangerous weapons that were, or still are, of little use for self-defense.

semiautomatic assault [pistols] that have certain combat-style features.” *Worman*, 922 F.3d at 37; *see also Duncan*, 19 F.4th at 1107 (LCM law “bans merely a subset (large-capacity) of a part (a magazine) that some (but not all) firearms use”). And Plaintiffs themselves acknowledge that it is only “certain semi-automatic firearms” that they are prohibited from owning under Hawai‘i law. Dkt. 21 at Page ID # 101. As a result, Hawai‘i law burdens Plaintiffs’ alleged Second Amendment rights far less than the handgun restrictions at issue in *Heller* and *Bruen*, because it does not restrict *any* “entire class of ‘arms,’” let alone one that is “overwhelmingly chosen by American society” for the purpose of self-defense. 554 U.S. at 628. *See supra* Part I.B.2 (discussing how both assault pistols and LCMs are unsuitable for and rarely used for self-defense); *see also Duncan*, 19 F.4th at 1104 (holding that a ban on LCMs imposes only a “minimal burden” on the right to self-defense in part because it does not limit the amount of firearms, bullets, or magazines an individual can possess); *id.* at 1115 (Graber, J., concurring) (finding that “a ban on large capacity magazines leaves open ample alternative means of self-defense).

Hawaii’s law is also comparably justified. It is driven by the same concern that motivated regulations of weapons throughout our Nation’s history: the need to protect public safety—specifically against the threat of unusually lethal weapons susceptible to criminal misuse. The states that regulated gunpowder possession and storage, the states that regulated concealable weapons, and the states that regulate semi-automatic weapons and LCMs today have all responded to emerging threats to public safety by regulating particularly dangerous weapons. Today’s urgent threat is the rise in mass shootings facilitated by modern weapons technology, and studies show that prohibitions on assault weapons and LCMs reduce the incidence and impact of mass shootings, thereby saving lives. *See* Klarevas Decl. ¶¶ 30-45; *see Brown*, 2022 WL 17454829, at *14. Assault weapons with LCMs have tragically played a central role in many of the deadliest mass shootings our Nation has experienced,³² *see* Yurgealitis Decl. ¶ 80, and Hawai‘i has justifiably acted in response to this pressing public safety concern—the same kind of concern that motivated comparable historical restrictions.

³² The mass shootings committed with assault pistols include: the 1999 Columbine High School shooting (13 fatalities, 23 wounded); the 2019 Dayton, Ohio shooting (9 fatalities, 27 wounded); the 2021 Boulder, Colorado shooting (10 fatalities); and last month’s shooting at a Monterey Park, California dance studio (11 fatalities, 9 wounded). Violence Policy Center, *Mass Shootings in the United States Involving Large Capacity Ammunition Magazines* (last updated Feb. 7, 2023), https://vpc.org/fact_sht/VPCshootinglist.pdf.

II. Plaintiffs Have Not Satisfied the Other Preliminary Injunction Factors.

Plaintiffs must affirmatively establish that they satisfy each of the preliminary injunction factors, but their motion makes virtually no effort to carry their burden on irreparable harm, the balance of the equities, and the public interest. Instead, Plaintiffs baldly assert that they have satisfied those factors because they have demonstrated a constitutional violation. Dkt. 24 at PageID # 130-31. But even accepting Plaintiffs' reduction of the entire preliminary injunction analysis to the first factor—which is contrary to Ninth Circuit authority, *see Brown*, 2022 WL 17454829, at *18—Plaintiffs' analysis fails because they have not actually shown that they are likely to succeed on the merits, as explained above.

Plaintiffs' motion also fails based on an independent analysis of the non-merits preliminary injunction factors. As to irreparable harm, Plaintiffs' case is undercut by the passage of time. Plaintiffs seek to preliminarily enjoin provisions that the Hawai'i Legislature passed in 1992—*30 years* before Plaintiffs filed suit. Plaintiffs also waited an additional 73 days after filing suit to seek a preliminary injunction, undermining any assertion that the extraordinary remedy of a preliminary injunction is necessary to prevent irreparable harm. *See, e.g., Oakland Trib., Inc. v. Chron. Publ'g Co.*, 762 F.2d 1374, 1377 (9th Cir. 1985) (“Plaintiff's long delay before seeking a preliminary injunction implies a lack of urgency and

irreparable harm.”)³³ The irreparable harm to the State, by contrast, is clear: “Any time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.” *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (cleaned up).³⁴

The balance of the equities and the public interest also overwhelmingly favor the State.³⁵ “The Ninth Circuit instructs that when balancing the hardships ‘of the public interest against a private interest, the public interest should receive greater weight.’” *Rupp v. Becerra*, No. 8:17-CV-00746-JLS-JDE, 2018 WL 2138452, at *13 (C.D. Cal. May 9, 2018) (quotation omitted). Here, it is so clear that the public interest outweighs Plaintiffs’ private interests—and that the public interest does *not* favor an injunction—that Plaintiffs’ motion could readily be denied on that basis alone. *See, e.g., Baird*, 2022 WL 17542432, at *6 (denying a

³³ *See also Garcia*, 786 F.3d at 746 (“Garcia waited months to seek an injunction . . . ; she did not seek emergency relief when the film first surfaced on the Internet.”); *Smith v. Biden*, No. 1:21-cv-19457, 2021 WL 5195688, at *9 (D.N.J. Nov. 8, 2021) (“[T]he fact that Plaintiffs waited nearly two (2) months to seek relief dispels any claim of irreparable harm.”); *Wise v. Inslee*, No. 2:21-cv-0288-TOR, 2021 WL 4951571, at *6 (E.D. Wash. Oct. 25, 2021) (approximately two-month delay in seeking emergency injunctive relief “‘implies a lack of urgency and irreparable harm’”).

³⁴ Even if Plaintiffs were to argue that their ability to engage in self-defense would suffer absent an injunction, that would not satisfy the irreparable injury requirement. The provisions at issue cover only assault pistols and LCMs, a *small fraction* of the firearms and magazines potentially available to Plaintiffs to defend themselves.

³⁵ “When the government is a party, the[] last two factors merge.” *Jewell*, 747 F.3d at 1092.

preliminary injunction motion based solely on the plaintiffs’ failure to satisfy the balance of harms and public interest factors).

Assault pistols and LCMs present grave public safety concerns. It is well-documented that assault weapons and LCMs are disproportionately used in mass shootings, *see, e.g.*, Klarevas Decl. ¶ 12, which “have become a weekly—and sometimes daily—event,” *Ocean State*, 2022 WL 17721175, at *18. The public safety concerns with frequent mass shootings are particularly acute with respect to assault weapons—including assault pistols—given their capacity for mass destruction and devastation. These weapons have military features that “pose heightened risks to innocent civilians and law enforcement officers—certainly because of the capability to penetrate building materials and soft body armor, but also because of an amalgam of other capabilities that allow a shooter to cause mass devastation in a very short amount of time.” *Kolbe*, 849 F.3d at 139. The injuries caused by assault weapons—including assault weapons equipped with LCMs—can be devastating. As noted by Dr. Christopher Colwell, a physician at the scene of the Columbine High School shooting, “assault weapons—including assault pistols—tend to cause far greater damage” than non-assault weapons “to the muscles, bones, soft tissue, and vital organs,” which are “too often shredded

beyond repair.” Colwell Decl. ¶ 9.³⁶ Assault weapons have caused “many of the most devastating injuries” Dr. Colwell has managed in his “over 25 years of experience treating gunshot wound victims. *Id.* ¶ 12.

LCMs also have the capacity to increase lethality and cause mass devastation by “enabl[ing] shooters to inflict mass casualties while depriving victims and law enforcement officers of opportunities to escape or overwhelm the shooters while they reload their weapons.” *Kolbe*, 849 F.3d at 127; Klarevas Decl. ¶ 27 (“LCMs increase kill potential”). Even the potentially brief pause caused by “[a] gunman’s need to reload twice using three ten-round magazines instead of a single thirty-round magazine . . . saves lives.” *Ocean State*, 2022 WL 17721175, at *19. This is not “mere[] conjecture”; it is borne out by “society’s experience with what is now a catastrophic number of these incidents,” including, for example, the “eleven children who escaped the Sandy Hook massacre during an apparent reloading[.]” *Id.* at *19, *21; *see also* Klarevas Decl. ¶¶ 30-31.

The laws Plaintiffs challenge—passed following several deadly mass shootings—are intended to help protect the public, including law enforcement, from these potential harms. *See, e.g.*, Yurgealitis Decl. ¶ 82; Klarevas Decl. ¶¶ 39,

³⁶ *See also* Gina Kolata & C.J. Chivers, *Wounds From Military-Style Rifles? ‘A Ghastly Thing to See,’* N.Y. Times, Mar. 4, 2018, <https://www.nytimes.com/2018/03/04/health/parkland-shooting-victims-ar15.html>; *Why do mass shooters choose the AR-15 style rifle?*, 60 Minutes, <https://youtu.be/weG-QtQx2-0>.

42. They have such a clear connection to public safety that it cannot possibly be in the public interest to preliminarily enjoin them. *See Worman*, 922 F.3d at 37 (“[T]he use of semiautomatic assault weapons implicates the safety of the public at large. After all, such weapons can fire through walls, risking the lives of those in nearby apartments or on the street.”); *Coal. of N.J. Sportsmen, Inc. v. Whitman*, 44 F. Supp. 2d 666, 686 (D.N.J. 1999) (“The rational link between public safety and a law proscribing possession of assault weapons is so obvious that it would seem to merit little serious discussion.”).

Even a preliminary injunction of short duration could have a tremendous impact on the public. For starters, it would allow assault pistols and LCMs to suddenly flood the market.³⁷ As other courts have noted, the resulting risks to the public are serious. *See, e.g., United States v. Masciandaro*, 638 F.3d 458, 475 (4th Cir. 2011) (noting that “miscalculat[ion] as to Second Amendment rights” could result in “some unspeakably tragic act of mayhem”); *Tracy Rifle*, 118 F. Supp. 3d at 1193 (“The costs of being mistaken, on the issue of whether the injunction would have a detrimental effect on handgun crime, violence, and suicide, would be

³⁷ *See* Matthew Green, *Gun Groups: More Than A Million High-Capacity Magazines Flooded California During Weeklong Ban Suspension*, KQED, Apr. 12, 2019, <https://www.kqed.org/news/11740000/gun-groups-more-than-a-million-high-capacity-magazines-flooded-california-during-weeklong-suspension-of-ban> (noting that “[m]ore than a million [LCMs] flooded into California during a one-week window created when a federal judge temporarily threw out the state’s ban” in what the Gun Owners of California president characterized as a “frenzy”).

grave.”). Under these circumstances—and given that the very objective of the provisions at issue is public safety—a preliminary injunction is plainly not in the public interest, and therefore may not issue. *See Rupp*, 2018 WL 2138452, at *13.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests that this Court deny Plaintiffs’ motion for preliminary injunction.

DATED: Honolulu, Hawai‘i, February 15, 2023.

/s/ Kaliko ‘onālani D. Fernandes

KIMBERLY T. GUIDRY
EWAN C. RAYNER
KALIKO‘ONĀLANI D. FERNANDES
NICHOLAS M. MCLEAN

Attorneys for Defendant ANNE E. LOPEZ,
in her official capacity as Attorney General
for the State of Hawai‘i

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai‘i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

**DECLARATION OF
KALIKO‘ONĀLANI
D. FERNANDES**

DECLARATION OF KALIKO‘ONĀLANI D. FERNANDES

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am a Deputy Solicitor General in the Department of the Attorney General, State of Hawai‘i, and I am one of the attorneys representing Anne E. Lopez, in her official capacity as Attorney General for the State of Hawai‘i, in this action.
2. Attached herewith as Exhibit “1” is a true and correct copy of the Declaration of Dennis Baron, including one exhibit attached thereto.
3. Attached herewith as Exhibit “2” is a true and correct copy of the Declaration of Ryan Busse, including one exhibit attached thereto.

4. Attached herewith as Exhibit “3” is a true and correct copy of the Declaration of Christopher B. Colwell, M.D., including one exhibit attached thereto.

5. Attached herewith as Exhibit “4” is a true and correct copy of the Declaration of Saul Cornell, including one exhibit attached thereto.

6. Attached herewith as Exhibit “5” is a true and correct copy of the Declaration of Louis Klarevas, including 13 exhibits attached thereto.

7. Attached herewith as Exhibit “6” is a true and correct copy of the Declaration of Randolph Roth, including one exhibit attached thereto.

8. Attached herewith as Exhibit “7” is a true and correct copy of the Declaration of Robert J. Spitzer, including 10 exhibits attached thereto.

9. Attached herewith as Exhibit “8” is a true and correct copy of the Declaration of James E. Yurgealitis, including two exhibits attached thereto.

10. Attached herewith as Exhibit “9” is a true and correct copy of the House Standing Committee Report No. 1261-92, published in the 1992 House Journal (Haw.), at 1382.

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

DATED: Honolulu, Hawai‘i, February 15, 2023.

/s/ Kaliko ‘onālani D. Fernandes
KALIKO‘ONĀLANI D. FERNANDES

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai‘i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

**DECLARATION OF DENNIS
BARON**

DECLARATION OF DENNIS BARON

I, Dennis Baron, declare under penalty of perjury that the following is true and correct:

1. I have been retained by the Department of the Attorney General, State of Hawai‘i, to provide expert opinion and testimony regarding Corpus Linguistics research. I am being compensated at a rate of \$350 per hour. The opinions expressed in this declaration are based on my knowledge, skill, experience, training, and education, and I hold these opinions to a reasonable degree of professional certainty. I have attached a true and correct copy of my curriculum vitae to this declaration.

EXHIBIT "1"

2. I have evaluated the historical use of the terms *arms* and *accoutrements* in order to determine whether large-capacity magazines (henceforth, LCMs), along with magazines, ammunition cases, cartridge cases or boxes, and other ammunition storage containers were considered arms in the time during and just after the Founding Era (1750–1820) through the Reconstruction Era, i.e., the period following the ratification of the Fourteenth Amendment (1868–1890).

3. I have also evaluated the lexical evidence for “repeater air guns,” which are sometimes referred to as “wind guns,” and the rare terms “magazine wind-gun” and a “magazine gun” in the Founding Era. “Air guns” used compressed air instead of gunpowder to propel a ball. Repeater air guns were capable of firing multiple shots before requiring the user to reload the weapon.

4. The lexical evidence leads me to conclude that (1) LCMs, magazines, ammunition cases, cartridge cases, boxes and other ammunition storage containers were considered accoutrements and not arms during the Founding and Ratification Eras, and (2) although a few artisans did invent air guns capable of firing multiple balls without reloading the ammunition or recharging the air cylinder, such guns were rare in England and America.

BACKGROUND AND QUALIFICATIONS

5. I am currently Professor Emeritus and Research Professor at the University of Illinois, where I have served as a member of both the Department of

English and the Department of Linguistics since 1975. I served as Head of the Department of English for six years and before that as Director of Rhetoric at the University for 11 years. I earned my Ph.D. in English language and literature from the University of Michigan in 1971, with a dissertation on historical aspects of the English language from Old English to Present-Day English, and I continue to publish widely on matters of historical language use, in addition to topics related to language and law. I am a life member of the Linguistic Society of America, the American Dialect Society, and the Modern Language Association, as well as a member of the National Council of Teachers of English. I have held a Fulbright Fellowship (to France), a National Endowment for the Humanities Fellowship for work on a book on language and law, and, most recently, a Guggenheim Fellowship for work on my latest book on language and law. I have also published books on language reform, on usage, and on gender in language.

6. Most relevant for this report, I published two books on language and law: *The English-Only Question: An Official Language for Americans?* (Yale Univ. Press, 1990) and *You Can't Always Say What You Want: The Paradox of Free Speech* (Cambridge Univ. Press, 2023). In addition, I served as lead author on what came to be called "the Linguists' Brief" in *District of Columbia v. Heller*, 554 U.S. 570 (2008), a brief cited both by Justice Scalia in the majority opinion, and by Justice Stevens in his dissent. I was a co-author on another brief by professors of linguistics

and corpus linguistics, cited in *New York State Rifle and Pistol Ass’n. v. Bruen* (No. 20-843, 2022), which Justice Breyer cited in his dissent. In that dissent, Justice Breyer also quoted directly from my essay “Corpus Evidence Illuminates the Meaning of ‘Bear Arms’” (*Hastings Constitutional Law Quarterly*, 46.3: 2019). I have spoken about historical meaning and the Second Amendment at the Federalist Society at the University of Chicago Law School, at the Neubauer Symposium on Historical Semantics at the University of Chicago, at Brigham Young University Law School, at Stanford University, and at the conference “*Heller* after Ten Years” at Hastings College of Law. I have also written opinion essays on historical meaning and the Second Amendment for the *Washington Post* and the *Los Angeles Times*. And I have submitted the following declarations: a declaration on behalf of the State of Rhode Island in *Ocean State Tactical, LLC, et al. v. State of Rhode Island* (No. 1:22-cv-00246-JJM-PAS); a declaration on behalf of the State of Delaware in *Delaware State Sportsmen’s Association, Inc., et al. v. Delaware Department of Safety and Homeland Security; Nathaniel McQueen, Jr.* (No. 1:22-cv-00951-RGA, Consolidated); a declaration on behalf of the State of Massachusetts in *National Association for Gun Rights and Capen v. Baker* (No. 22-cv-11431-FDS); a declaration on behalf of the District of Columbia in *Hanson, et al v. District of Columbia, et al.* (No. 1:22-cv-02256-RC); a declaration on behalf of the State of Connecticut in *National Association for Gun Rights v. Lamont* (No. 3:22-cv-01118-

JBA); and declarations on behalf of the State of California in *Rupp, et al. v. Bonta* (No. 8:17-cv-00746-JLS-JDE), *Duncan, et al. v. Bonta* (No. 3:17-cv-01017-BEN-JLB), and *Fouts, et al. v. Bonta* (No. 3:19-cv-01662-BEN-JLB). In the past twenty years I have been an expert consultant in fourteen cases involving document interpretation. A copy of my curriculum vitae is attached to this declaration as **Exhibit A**.

7. My recent essay, “Look It Up in Your *Funk and Wagnalls*: How Courts Define the Words of the Law,” an analysis of how judges incorporate information from dictionaries and digitized corpora as they ascertain legal meaning, appears in the latest issue of *Dictionaries*, the academic journal of the Dictionary Society of North America.

8. I have been retained by the Department of the Attorney General, State of Hawai‘i to provide expert testimony in litigation challenging Hawaii’s assault pistol and large capacity magazine regulations. I am being compensated at a rate of \$350 per hour for my work on this report and for any additional work required including providing testimony at trial. This report is made based on my professional knowledge and expertise, and on my research using accepted scientific linguistic methodology in the field of Corpus Linguistics, the analysis of one or more large, digitized corpora consisting of many millions of words.

OPINIONS

Summary of Conclusions

9. Historical evidence from a number of large textual databases, or corpora, shows that during the Founding Era and the Reconstruction Era, “arms” is used as a general term for weapons (typically swords, knives, rifles, and pistols), but arms does not include ammunition, ammunition containers, flints, scabbards, holsters, armor, or shields, which are included in the category “accoutrements.” Nor does arms refer to parts of weapons, for example the trigger of a gun, the hilt of a sword, or the cartridge box or magazine that holds the bullets.

10. Instead, when this additional equipment is mentioned, we find phrases like “arms and ammunition”; “arms and accoutrements”; or “arms, ammunition, and accoutrements.” For example, “arms and accoutrements” is frequently used in military contexts to distinguish weaponry and related equipment from the rest of a soldier’s or militia member’s equipment. For example, militia requirements often specify that soldiers have certain arms (pistols, swords, rifles, according to their rank) as well as certain “accoutrements” (the word is typically plural) (including horses, saddles, cartridge cases or boxes, scabbards, flints, and so on). When the term “accoutrements” occurs alone, as in “the accoutrements of a soldier,” it may include both arms and accessories. “Cartridge boxes” and “cartouch boxes” are the terms used for ammunition containers in the eighteenth and nineteenth centuries and

are analogous to today's "magazines." When "arms and accoutrements" occurs as a phrase, there is a clear distinction made between weapons themselves and the soldier's cartridge boxes or cartouch boxes, which are typically identified as accessories along with scabbards, saddles, holsters, belts, caps, pouches, and the rest of a soldier's equipment.

11. I have found no lexical evidence that repeater air guns were used as military weapons in England or America in the Founding Era, or that they were used as weapons of personal self-defense at that time.

Theory and Methodology

12. Corpus linguistics as a field developed in the late 1960s, when scholars began using computer programs to analyze large bodies of digitized text. Initial work in corpus linguistics did not typically involve legal issues. Literary scholars developed computerized concordances to the works of Shakespeare, Milton, and other major English writers. Scholars plotted the frequency of words and phrases in order to develop a picture of an author's style, and to determine authorship of a particular work when the provenance was in doubt. Soon, in addition to solving literary mysteries, the methodologies used by corpus linguists were successfully applied in a number of criminal cases in the United States and in England involving, for example, the authorship of a ransom note or an email. Lexicographers, who began compiling large analog databases of text in the late nineteenth century, began

to digitize their libraries of paper data and to add to that material, assembling computerized databases of historical and contemporary text and, more recently, of spoken language as well, in order to arrive at more precise definitions of the multiple senses of words and phrases.

13. The Oxford English Dictionary (OED) is the standard dictionary of the English language compiled on historical principles. As a graduate student at the University of Michigan in 1970, I coded analog texts from the relevant OED files to help build the computerized database for the Dictionary of Early Modern English, the period from 1500–1800 that is particularly relevant to the language of the Founding Era. Today, major dictionaries like the OED and the Merriam-Webster suite of dictionaries rely on public databases of oral and written language, as well as their own proprietary databases, in order to revise older definitions and to track the spread of new words and meanings. The major dictionary makers of Europe use similar databases in their own work.

14. Over the past twenty years, legal corpus linguistics (LCL) has developed as a subset of corpus linguistics. LCL involves the analysis of digitized corpora of current and historical English to establish meaning—often referred to as “original public meaning” —in statutes and the Constitution. Over the past decade, LCL has become an important tool in helping to determine original public meaning when such meaning is in doubt. In *Muscarello v. United States*, 524 U.S. 125 (1998),

a case which held that “a person who knowingly possesses and conveys firearms in a vehicle, including in its glove compartment or truck, can be deemed to be within the scope of the statutory phrase ‘carries a firearm,’” Justice Breyer searched two computerized newspaper databases (Lexis/Nexis, for the *New York Times*, and Westlaw, for “US News”) to clarify the meaning of the words “carry, vehicle,” and “weapon.” In 2012, Judge Richard Posner, of the Seventh Circuit, was perhaps the first jurist to use a general internet search in order to determine a word’s meaning in a statute. Not satisfied with the dictionary definition that the government relied on in the case before him, Judge Posner ran a Google search to confirm that the word “harbor” in the Immigration Act of 1917 does not mean “shelter,” as the government claimed, but rather “hide, conceal from view,” as he felt it must mean in the context of the statute. *United States v. Costello*, 666 F.3d 1040 (7th Cir. 2012).

15. More principled, scientific database searches soon followed, and in 2018 Judge Thomas Lee, of the Utah Supreme Court, a long-time champion of corpus linguistics, together with the legal scholar Stephen Mouritsen, summarized the latest research in corpus linguistics and LCL as a way to determine ordinary meaning, and more specifically, original public meaning with more clarity (Thomas Lee and Stephen Mouritsen, “Judging Ordinary Meaning,” *Yale Law Journal* 127(2018): 788–879). Jurists over the past few years have found that in several cases, LCL proves more useful than the period dictionaries (for example, the dictionaries

of Samuel Johnson and Noah Webster) that courts have often relied on to determine historical meaning. LCL often supplements the historical interpretations found in older dictionaries and in the Oxford English Dictionary, as well, allowing a more precise interpretation of historical text data.

16. In addition to the publication of several significant law review articles by experts in the field of corpus linguistics, there have been several conferences on legal corpus linguistics in the past few years, and a number of continuing-education seminars on LCL are now offered for judges and lawyers. As a result, corpus linguistics has drawn increased attention from the courts, including recent mentions in decisions in the Sixth, Seventh, and Ninth Circuits, as well as a comment by Justice Alito in his concurrence in *Facebook, Inc. v. Duguid*, 141 S. Ct. 1163 (2021), where he suggested that LCL may one day provide a useful alternative to the canons of interpretation.

17. Several large databases have come online in the past few years that facilitate LCL research. Brigham Young University's Center for Law and Corpus Linguistics hosts the Corpus of Founding Era American English (COFEA), with more than 126,000 texts, comprising close to 137 million words and covering the years 1760–1799. BYU's Corpus of Early Modern English (COEME), with data from 1475–1800, contains over 40,000 texts and 1.1 billion words. For the nineteenth century, the Corpus of Historical American English (COHA), initially

developed at BYU but now independent of that institution, currently contains 475 million words of text from 1820–2020. The size of these databases continues to grow as more works are digitized, coded, and added to the corpora. In compiling this report, I reviewed each of these databases. Some of the corpora provided data for some lexical searches, but not for others. The examples cited in this declaration specify which corpus they are drawn from.

18. Critics of LCL have complained that databases like COFEA and COEME contain only texts written by “elites,” whose language may differ from that of “ordinary people” who do not write at all, or who for various reasons do not write texts likely to be included in the available corpora. It is certainly the case that many printed books and periodicals, along with documents like the Constitution, its amendments, and state and federal statutes, tend to be written by educated specialists and professional writers. Although “ordinary people” are expected to understand the language of the Constitution, the Declaration of Independence, and other founding documents, as well as the laws that govern the nation, such texts typically require specialized knowledge. A reading-difficulty formula like the commonly used Flesch-Kincaid scale suggests that the Declaration of Independence and the Constitution require a fifteenth-grade reading level, while according to one comprehensive study, *Adult Literacy in America* (National Center for Education Statistics, U. S. Department of Education, 1993;

<https://nces.ed.gov/pubs93/93275.pdf>), the average American adult tends to have a seventh- or eighth-grade reading level (the National Center for Education Statistics no longer uses “grade level,” instead rating literacy levels for Americans between ages 16 and 65 on a scale from 1 to 5; measurements conducted in 2003 showed no significant change from the 1993 NCES report; and the most recent data, from 2014, confirm that most adult Americans still test at or below level 2, with 4.1% testing *below* level 1; <https://nces.ed.gov/pubs2019/2019179/index.asp>).

19. In order to counter any “elite” bias that may be found in databases like COFEA, COEME, and COHA, I rely as well on five digitized newspaper databases covering the period 1750–1900, focusing for this report on the Founding Era and on the period of Reconstruction after the passage of the Fourteenth Amendment. Newspapers of the eighteenth and nineteenth centuries were the principal means of communicating news and information. As such, they embodied much of the language of the “ordinary people” who read them. These early newspapers also provide researchers with more data for the nineteenth century than a corpus like COHA, which covers the same period but tends to focus on literary and specialized texts rather than material for the general reader. Because of changes in print technology and the spread of literacy, Founding Era newspapers differed from the newspapers of the post-Civil War era. Print technology remained relatively static between the 1450s, when printing presses first appeared in Europe, and the early

nineteenth century, when the Industrial Revolution drastically changed printing methods. The first printing press was adapted by Gutenberg from the design of the traditional wine press, and for centuries, printing was a slow and labor-intensive process. As a result, newspapers in the founding era were small, averaging four to eight pages. Publication was less frequent as well. Papers tended to appear weekly or semi-weekly, rather than daily. Even so, newspapers in the Founding Era and later, during Reconstruction, provided average Americans with their principal access to all the critical events and documents of their time, along with coverage of local and international news. Although newspaper subscribers tended to be “elites,” newspaper content was widely shared by word of mouth: ultimately, most Americans in the Founding Era, including those who would be classified as illiterate or poorly educated by today’s standards, got their news from newspapers.

20. Since the 1960s, database compilers have been able to track contemporary spoken English more successfully, though none of the databases for the Founding Era and for the post-Civil War period cover the spoken language of Americans. Although scholars can reconstruct some of that oral language, we are always doing so through the lens of print versions purporting to represent or comment on ordinary speech.

21. The newspaper databases that I have examined are Readex Historical American Newspapers; Chronicling America (newspapers digitized by the Library

of Congress); the British Newspaper Archive (a service of the British Library); and two private subscription services, newspapers.com and newspaperarchive.com. For this report, both Readex and newspapers.com provide the most-complete picture of the language of the Founding Era newspapers as well as the ordinary language of the later nineteenth century.

22. All the databases contain some duplicates. COFEA and COEME digitize multiple editions of the same work; and the newspaper databases not only duplicate some, though not all, of one another's content, but they also contain a number of duplicate stories because, particularly in the period of newspaper growth during the nineteenth century—in an age before the wire services and syndication appeared, and before the larger papers began to set up news bureaus in key areas around the country and around the world—newspapers routinely printed each other's stories, sometimes acknowledging their source and sometimes not. Still, the databases often offer more insight into the meaning of words and phrases than simply going to a dictionary. Jurists from Learned Hand and Felix Frankfurter to Frank Easterbrook and Richard Posner have warned their colleagues not to make a fortress of the dictionary. The corpora are by necessity incomplete. LCL does not replace dictionaries, but it does provide an important supplement to them.

The meaning of arms and accoutrements in the databases

23. I was asked to look at the meaning of “arms” and “accoutrements” as used individually, along with the phrase “arms and accoutrements” in the Founding Era and during the period immediately following the adoption of the Fourteenth Amendment. I focused on whether the term “magazine” as used today falls within the meaning of the term “arms” when used on a standalone basis during those eras. I was also asked to look at lexical evidence in the Founding Era for the names of inventors associated with the “air rifle,” or “air gun,” and to assess any lexical evidence about the availability and popularity of the repeater air gun.

24. In the eighteenth and nineteenth centuries, “magazine” was a word that meant “storehouse, depot.” A magazine was a place, often a building or warehouse, to store goods and supplies. When used in a military sense, a magazine was a building designated for storing gunpowder, and as such, it was subject to strict regulation. Because gunpowder was an explosive substance, some towns banned or heavily regulated the storage of gunpowder within city limits. The word “magazine” was not typically used to refer to the compartment of a gun containing bullets until late in the nineteenth century. Although the term “magazine” appears in the phrase “magazine wind gun” in 1744, that usage is marked as “rare” by the Oxford English Dictionary, which also marks the phrase “magazine wind gun” as “obsolete.” In its separate, main entry for “magazine,” the OED gives the earliest use of “magazine” meaning “a bullet storage container” as 1888, and the term remained relatively rare

until the 1920s. Before that time, bullets were kept in “cartridge boxes,” sometimes called “cartouch boxes,” or “cartridge cases” or pouches, and these bullet storage containers were part of the general category of military accoutrements, not arms.

25. The data suggests that “cartridge boxes,” and therefore today’s LCMs, would have been viewed as accoutrements, the ancillary equipment associated with soldiering, or service in the military.

26. The OED defines “accoutrements” as, “items of apparel; (more generally) additional pieces of dress or equipment, trappings; (Military) the outfit of a soldier other than weapons and garments.” [OED online, s.v. “accoutrement”; the word typically appears as a plural.]

27. Thus, the military sense of “accoutrements” generally refers to other accessories worn or carried by soldiers. The OED illustrates this second, military, sense, with an example from the Duke of Wellington’s dispatches in 1813: “In order to collect the wounded and their arms and accoutrements.” Here Wellington, widely recognized as a consummate soldier, and who would soon defeat Napoleon at the Battle of Waterloo in 1815, makes a clear distinction between “arms” and “accoutrements.”

28. The OED definitions are instructive. But in order to determine more specifically whether the term “accoutrements” included “cartridge boxes,” the predecessor to modern magazines, I consulted two digitized historical databases:

COFEA and COEME. A COFEA search returns these examples where “cartridge boxes” and “cartouch boxes” are specifically included in the category of accoutrements, not arms:

- a) 1774 – “The cartouch boxes and other military accoutrements belonging to the noncommissioned officers and privates....” (Journals of the Continental Congress).
- b) 1774 – “The cartouch boxes and every other species of military accoutrements annexed to the persons of the officers and soldiers of General Burgoyne’s army.” (Journal of the Continental Congress).
- c) 1776 – “The General is surprised to find the Militia applying for Cartouch Boxes and other Accoutrements.” (George Washington, General Orders, February 17).
- d) 1777 “Many of their Arms are indifferent, and almost the whole [of Washington’s troops] are destitute of pouches and Other necessary Accoutrements.” (George Washington, Letter to John Hancock, October 10–11; the pouches in question are ammunition holders).
- e) 1777 – “The officers and men were to ... deliver up their arms, the cartouch boxes and other military accoutrements....” (William Duer, Congressional Resolution: A State of Facts, December).
- f) 1778 – “[T]he board, on the 17th of April, impowered a Capt. Starr of Middleton in Connecticut to receive a quantity of public leather of Colo. Trumbull, and get it made up into shoes and accoutrements, half of each, the cartridge boxes upon the new model; and to send on both to the main army....” (Timothy Pickering, Letter to George Washington, June 9, 1778. At the time, cartridge boxes were made of wood or leather, or a combination of the two).
- g) 1783 – “And as to cartridge boxes and other leathern accoutrements, saddles & other furniture for dragoons.... ” (Timothy Pickering, Letter to George Washington, April 22).

29. And COEME adds this example, where “cartridge box” appears in a list that includes “accoutrements” but not “arms”:

- a) 1788 – “If you could only tell us how to keep papa at home, my drum, spontoon, cartouch box, and accoutrements, should all be yours.” (*The Children’s Friend, Translated from the French*).

30. My review of the corpora also confirmed that “accoutrements” are regularly referred to separately from “arms.” A COFEA database search for the occurrence “accoutrements” within 6 words of “arms” returned 873 hits (including a small number of duplicates). A similar search of COEME returned 126 hits, the earliest from 1656. I determined that the two search terms, “arms” and “accoutrements,” often appear together as a single phrase, “arms and accoutrements,” typically in military contexts having to do with an army or militia unit. “Accoutrements” often occurs in a list alongside, but separate from, ammunition: “arms, accoutrements, (and) ammunition,” though when ammunition is not listed separately, the term “accoutrements” will generally include ammunition.¹

31. “Arms” as a stand-alone term refers to weapons. “Arms” almost never includes ammunition or ammunition storage containers such as cartridge boxes. These are the three examples that a COHA search returns:

¹ The second OED citation for “accoutrements,” dated 1902, differentiates “ammunition” and “accoutrements”: “When they landed they brought on shore besides a quantity of ammunition and accoutrements...and large stores of flour, sugar and tobacco, &c.” (G. S. Whitmore, *Last Maori War* i. 4).

- a) 1821 – “It is necessary to obtain ammunition, arms and accoutrements, and as many horses as you can get” (William Dobein James, “A Sketch of the life of Brig. Gen. Francis Marion and a history of his brigade”).
- b) 1909 – “Lyon was ordered to deliver to Governor Yates 10,000 stand of arms with accoutrements and ammunition.” (Robert J. Rombauer, “The Union Cause in St. Louis in 1861”).
- c) 1949 – “It will be necessary that arms, ammunition, accoutrements, tents and camp equipage be deposited there for them the troops.” (Francis F. Beirne, “War of 1812”).

32. The “cartridge box” or “cartouch box”—the precursor to today’s “magazine”—is typically mentioned in lists of accoutrements, often in connection with other items worn with a soldier’s uniform. The “cartridge box” almost never appears to be included among a soldier’s weapons. The OED defines “cartridge box” as “a box for storing or carrying cartridges; the case in which a soldier carries his supply of cartridges” (OED online; this definition covers “cartouch box” as well). The OED cites the definition in Smyth and Belcher’s *Sailor’s Word-Book* (1867) to illustrate its function. Here is the full definition of “cartridge-box” in in that nautical dictionary: “a cylindrical wooden box with a lid sliding upon a handle of small rope, just containing one cartridge, and used for its safe conveyance from the magazine to the gun—borne to and fro by the powder-monkeys (boys) of old. The term is loosely applied to the ammunition-pouch” (Admiral W. H. Smyth and Vice-Admiral Sir E. Belcher, *The Sailor’s Word-Book: An Alphabetical Digest of Nautical Terms*, London, 1867; see ¶ 57, below, for the authors’ definition of “magazine” as a gunpowder storeroom either on land or on a ship).

33. A search of Readex America’s Historical Newspapers for “cartridge box,” and the synonymous “cartouch-box,” for the Founding Era years 1750–1790 returns 176 citations, including multiple duplicates. A Readex search for the period after the adoption of the Fourteenth Amendment, from 1868–1890, returns 1,306 citations, also with many duplicates. The following examples show instances where “cartouch boxes” or “cartridge boxes,” are treated as categories separate from arms. Note that in example (d) the list separates small arms from cutlasses as well. And example (j) clearly shows that cartridge boxes are accoutrements, not arms:

- a) 1756 – “Every such Male Person . . . provide himself with one well fixed Musket, or Fuzee, with a Worm and Priming Wire, one Cartouch Box, with nine charges of Gun Powder, and Ball suitable therein, and three good Flints . . . and shall keep such Arms and Ammunition by him, in good Order.” *Pennsylvania Gazette*, May 13, 1756.
- b) 1774 – “That each man be provided with a good firelock and bayonet fitted thereon, half a pound of powder, two pounds of lead, and a cartouch box, or powder-horn and bag for ball, and be in readiness to act on any emergency.” Proceedings of the Continental Congress, *Pennsylvania Journal*, December 21, 1774.
- c) 1775 – “That each Inhabitant, or Person, as aforesaid, who shall provide Arms for himself, well fixed with a good Bayonet and Cartouch-Box, shall be paid a minimum of 10s.” *The Massachusetts Gazette*, May 19, 1775.
- d) 1775 – “We hear from Charlestown, South-Carolina, that on the 21st of March, at Night, about eight Hundred Stand of Small Arms, 2 Hundred Cutlasses, and all the Cartouch-Boxes, fit for Service, with several Bundles of Match & some Flints, were taken out of the public Armoury.” *New Hampshire Gazette*, June 2, 1775.
- e) 1775 – “Deserted from Colonel Woodridge’s regiment . . . Martin Nash . . . carried away a long gun of Gen. Pomeroy’s make, a cartridge box

and good stock of ammunition belonging to the province.” *New England Chronicle*, November 9, 1775.

- f) 1778 – “numbers of the cartouch-boxes and several other articles of military accoutrements annexed to the persons of the non-commissioned officers and soldiers in General Burgoyne’s army, have not been delivered up.” *Massachusetts Spy*, February 19, 1778.
- g) 1778 – “List of Necessaries and Accoutrements for each Horseman: 1. A well-tempered sword . . . 2. A carbine, fusee, or short blunderbuss . . . 3. A pair of pistols and holsters. 4. A sword-belt—a belt for the carbine . . . 5. A cartridge-box to buckle round the waist, with twelve tin pipes for the cartridges. 6. A helmet . . . 7. A saddle....” *New-Jersey Gazette* March 25, 1778.
- h) 1785 – “A Neapolitan officer was killed in the same engagement by a cartouch box taking fire while charging the guns.” *South-Carolina Weekly Gazette*, August 4, 1785.
- i) 1787 – Abstract from the Militia Law. “That every non-commissioned officer and private soldier of the said militia . . . shall equip himself . . . with a good fire-arm, with a steel or iron ramrod, a spring to retain the same, a worm, priming wire and brush, a bayonet fitted to his fire-arm, and a scabbard and belt for the same, a cartridge box that will hold fifteen cartridges at least, six flints, one pound of powder, forty leaden balls suitable for his fire-arm, a haversack, blanket, and canteen.” *Massachusetts Gazette*, February 2, 1787.
- j) 1787 – “All persons liable to do Militia Duty . . . must provide themselves with proper arms and accoutrements, viz. a musket and bayonet, a cartouch box or pouch that will contain twenty-four cartridges.” *State Gazette of South Carolina*, July 16, 1787.
- k) 1868 – “Government Sale at Watertown Arsenal Mass. . . . Lot of cavalry accoutrements, consisting of Cartridge Boxes, Pistol Holsters, Sabre Belts, Knots, &c.: lot of Infantry accoutrements, consisting of Bayonet Scabbards, Cap Pouches, Cartridge Boxes, Gun Slings.” *Evening Star* (Washington, D.C.), January 9, 1868. [Perhaps the clearest and most direct citation specifying cartridge boxes as accoutrements.]

- l) 1868 – Another government sale lists weapons (carbines, muskets, rifles, and pistols) followed by a list of items that are separate from weapons: “254 carbine cartridge boxes,” carbine slings, cavalry sabre belts, bayonet scabbards, cap pouches, “1,619 cartridge boxes,” “257 cartridge-box Belts,” gun slings, waist belts, “and various other articles.” *Daily Morning Chronicle* (Washington, D.C.), April 22, 1868.
- m) 1869 – This account describes the new French “Mitrailleuse,” a field weapon which would seem to be analogous to what we call a machine gun today, and the cartridge box would be the equivalent of what today we call a removable magazine. The Mitrailleuse is “a new ‘ball syringe’ in the shape of a small cannon. . . . It contains thirty-seven common infantry cartridges, arranged like cigars in a bundle. As soon as it is attached to the breech of the cannon, the Mitrailleuse is loaded. A man sitting on the carriage fires it by turning a crank. . . . The crank is turned once more and the cartridge box is removed from the cannon; a man to the right takes it, removes it from the ‘cigar box’; the men to the left put a new one in.” *Daily Albany Argus*, November 6, 1869.
- n) 1870 – In this description of the French National Guard, the writer notes the importance of rapid-fire rifles for defense against the Prussian troops. Several paragraphs later, the cartridge box is listed along with a guard’s uniform requirements: “a uniform will be obligatory for all. Each one must be provided with a weather-proof knapsack. . . , a cartridge-box or pouch, and a half-woolen covering of the material of a tent.” *New York Tribune*, November 5, 1870.
- o) 1871 – Article about a memorial statue in which the cartridge box is identified as part of the soldier’s uniform: “a soldier dressed in full uniform (overcoat, cartridge box, belt, etc.,) leaning on his musket.” *Boston Journal*, November 12, 1870.
- p) 1872 – This list of government ordnance and ordnance stores for sale groups weapons and accoutrements separately, with cartridge boxes clearly identified as accoutrements. The weapons for sale are muskets, rifled muskets, and revolvers, followed by this comment, “Nearly all the Starr’s Revolvers and about two-thirds of the other arms are in fair order.” After the arms list comes the list of accoutrements, consisting of cap pouches, waist belts, bayonet scabbards, “cartridge box and belt plates,” musket and pistol appendages, “and an assortment of other

accoutrements and appendages.” *Daily Morning Chronicle* (Washington, D.C.), February 3, 1872.

- q) 1876 – In this description of a dead body of a soldier found on a beach, the cartridge box is described as an article of the deceased’s uniform: “The body was clothed in a blue overcoat and pants, and had on waist-belt, cross-belt and cartridge-box.” *Wilmington Morning Star* (North Carolina), February 8, 1876.
- r) 1879 – The cartridge box forms part of a new military uniform: “In the rest of the brigade the multiplicity of belts is done away with, and in place is substituted a simple body belt to which the bayonet scabbard and cartridge box is attached. Equipped in such a uniform . . . the brigade will present a solid and soldierly appearance.” *New Haven Register*, July 28, 1879.

34. In sum, in the vast majority of examples, arms referred to weapons. Arms generally did not include ammunition or other weapon accessories, including the historical analogue to the magazines. Instead, “cartridge boxes” and “cartouch boxes” were considered “accoutrements,” or uniform accessories, like the other military equipment (scabbards, belts, and so forth) that was separate from, and did not include, arms.

35. But English usage is never simple. As linguists often say, “all grammars leak”—which is to say, there are always a few counterexamples in the data. The existence of counterexamples does not invalidate the data or undercut an interpretation, it simply shows that although the users of a language share a common sense of what words and grammatical constructions mean, variation in meaning and usage occurs in all human language. Given the volume of samples, that is not

surprising. Thus, for example, in COFEA, “accoutrements” does occasionally encompass arms, as in this example:

A few years since, some boys, equipped in mock military accoutrements, such as paper-caps, paper-belts, wooden swords, &c. were beating up for recruits in Parliament-street, Boston. [*The American jest book: Part I[-II]*, 1789; emphasis added; here military accoutrements includes toy swords.]

In addition, four of the Readex newspaper citations appear to sweep cartridge-boxes or cartouch-boxes into the broader category of arms. However it is not clear from the context in these examples whether cartridge boxes are arms or accoutrements:

- a) 1753 – “[E]very listed Soldier and other Householder . . . be always provided with a well-fix’d Firelock . . . a Snapsach, Cartouch Box, one Pound of Powder, twenty Bullets fit for his Gun, twelve Flints, a good Sword or Cutlass, a Worm and Priming Wire, on penalty of six Shillings for want of such Arms as is hereby required, and two Shillings for each other Defect.” *Boston Post-Boy*, April 30, 1753. Considering citation (c), below, dated 1756, it is likely that the fine for not having a cartouch box in this example would not be the higher fine for a weapons defect, but rather the lower fine of 2s. levied for “other defects.”
- b) 1755 – “whoever provides himself a good Firelock, Sword or Hatchet, Belt and Cartridge-Box, to receive 16s. more . . . but the Arms to be returned when the Service is over.” *Boston Gazette*, April 21m 1755. It is not clear from the context whether the cartridge boxes are part of the arms that must be returned. In other articles, cartridge boxes are treated as a soldier’s personal items. They may bear a variety of decorations, and they are sometimes listed along with other uniform items in a description of a soldier’s funeral.
- c) 1756 – “That every Male Person . . . shall . . . provide himself with one well fixed Musket, or Fuzee, with a Worm and Priming Wire,

one Cartouch Box with nine Charges of Gun Powder, and Ball suitable therein, and three good Flints . . . and shall keep such Arms and Ammunition by him, in good Order, and fit for Service, at all Times . . . under the Penalty of Twenty Shillings for Want of a well fixed Musket or Fuzee, with a Worm and Priming Wire, and Two Shillings for the Want of every Cartouch Box, and Two Shillings for the Want of nine Charges of Gun Power and Ball, and three Flints, or any of them.” *Pennsylvania Gazette*, May 13, 1756. The larger fine for lack of arms, along with lower fines for missing Cartouch Boxes and ammunition, suggest that cartouch boxes and cartridge boxes do not belong to the category “arms” but are instead a form of accessory.

- d) 1785 – “His European weapons consisted of a musket, bayonet and cartouch-box; a fowling piece; two pair of pistols; and two or three swords or cutlasses.” *History of Capt. Cook’s Voyage, Massachusetts Centinel*, January 15, 1785. Here cartouch box appears among the list of weapons carried by an islander that Cook encountered.

36. Another cite, from 1777, refers to firearms and other military accoutrements, implying, too, that arms may be a subcategory of “accoutrements”:

“any drafted soldier . . . who is unprovided with a fire-arm, and other military accoutrements prescribed by the militia law.” Massachusetts, Acts & Laws, March Session, Colony of Massachusetts Bay, 1777, p. 10 (but see Par. 38, ex. a).

37. But the fact that “arms” are sometimes included as a subcategory of “accoutrements” does not mean that “arms” includes weapon accessories or other “accoutrements.”

38. Moreover, despite a handful of exceptions like those just cited, in literally hundreds of cases, “arms” and “accoutrements” are treated as separate categories of military gear. Here are some typical examples from the Founding Era:

- a) 1776 – “The Sum of ten Shillings ... to purchase said Fire Arms and Accoutrements” (Acts and Laws March Session, Colony of Massachusetts Bay; here arms and accoutrements are separate, unlike the citation from 1777, above, from the same source, where arms and accoutrements are lumped together).
- b) 1780 – “arms, ammunition, accoutrements, drums and fifes in possession of the respective regiments” (George Washington, General Orders January 22).
- c) 1783 – “Such of the Noncommissioned officers and privates ... shall be allowed the fire arms and accoutrements as an extra reward” (George Washington, General Orders, May 1).
- d) 1795 – “you will march with arms and accoutrements in good order.” (*Incidents of the Insurrection in the Western Part of Pennsylvania, in the year 1774*. This example is from COEME; the other examples in this list are from COFEA).
- e) 1798 – “To hold his powder and his ball, his gun, accoutrements and all”[French Arrogance, or, “The Cat Let Out of the Bag.” This poetic example shows that the idiomatic phrase arms and accoutrements has become part of the general language available not just to military specialists but also to poets and novelists.]

39. A newspapers.com search for “accoutrements” returns 1,392 hits.

There are 692 matches for the exact phrase “arms and accoutrements.”

40. Here is a mid-eighteenth-century British example from the newspapers.com corpus where *arms* and *accoutrements* are separate categories, as is *ammunition*: “This Militia shall receive their Arms, Accoutrements, and Ammunition from the Ordnance.” *Derby Mercury*, March 19, 1756, p. 3.

41. Similarly, there is this “ploughshares into swords” example of a Cambridge University library to be converted to military use: “[T]he new Building

intended for a publick Library . . . may be converted into a Barrack, and be supplied with Provisions, Arms, and Accoutrements, at the Expençe of the University.” (*Jackson’s Oxford Journal*, March 20, 1756, p. 2).

42. A search of “arms and accoutrements” in the Readex database of America’s Historical Newspapers returns 3,103 hits from 1750–1800; and 2,036 hits from 1868–1880. This early example from the colonial period appeared in the *Boston Evening Post* in 1750. It distinguishes “arms” from uniforms, “accoutrements,” and other military equipment: “All Gentlemen Volunteers [in Nova Scotia] . . . shall be completely Cloathed in blue Broad Cloth, receive Arms, Accoutrements, Provisions, and all other Things necessary for a Gentleman Ranger.”

43. This cite from the *Pittsburgh Gazette* in 1789 reflects a clear sense that “arms” and “accoutrements” are distinct categories in the new nation as well: “The militia . . . must be considered as the palladium of our security The formation and discipline of the militia of the continent should be absolutely uniform; and that the same species of arms, accoutrements, and military apparatus, should be introduced in every part of the United States.”

44. The text of a bill in Congress to establish a uniform militia appeared in the *New York Journal* in 1790. It confirms the Founding-Era sense that “arms,” “ammunition,” and “accoutrements” make up distinct and separate elements of a soldier’s kit: “There shall be appointed an adjutant general for each state . . . whose

duty it shall be to ... report[] the actual situation of their arms, accoutrements, and ammunition.... Every non-commissioned officer or private ... for appearing at such meeting or rendezvous without his arms, ammunition, or accoutrements, as directed by this act, shall pay the sum of twenty-five cents.”

45. And this cite from 1868 clearly distinguishes what counts as “arms,” and what counts, separately, as “accoutrements”: “At Watertown Arsenal, Massachusetts ... the following Arms, &c., will be sold:10,699 rifled and smooth-bore Muskets ... ; 261 Carbines ... ; 305 Sabres ... ; lot of cavalry accoutrements, consisting of Bayonet Scabbards, Cap Pouches, Cartridge Boxes, Gun Slings, Waist Belts, &c.” *Daily Morning Chronicle* (Washington, DC).

46. The newspaper data parallels that of COFEA: the phrase “arms and accoutrements” is almost always military. The phrase sometimes occurs alongside “ammunition” as a separate list item. “Accoutrements,” when it appears alone in a military context, is a more general term, used for gear and rarely, for arms as well.

47. It is clear that “arms and accoutrements” was, during the eighteenth and nineteenth centuries, a common military phrase, in both England and America. English often yokes terms commonly found together into idiomatic pairings, sometimes called binomials, like “bacon and eggs,” “salt and pepper,” or, in a legal context, “assault and battery” or “breaking and entering.” Such pairs take on the characteristics of a formula and often appear in the same order (this order may be

dictated by logical succession of events, or it may be random). “Eggs and bacon” is rarer than “bacon and eggs.” And it would be unusual to find “battery and assault.” Such ordered pairs are called “irreversible binomials,” though there is nothing but custom (as in “salt and pepper”) and sometimes logic (as in “breaking and entering”) to prevent anyone from reversing the order.

48. The word “accoutrements” typically occurs in a list after “arms” (more rarely, it may occur before “arms” as well), and it is typically a separate category from “arms” (though not always, as the above examples show).

49. There are over 47,000 citations in newspapers.com for “arms” or “accoutrements” in the period 1868–1900, and 15,799 cites for the exact phrase “arms and accoutrements.” Examining a selection of the 15,799 citations of the phrase confirms that both in England and the United States, “arms” and “accoutrements” are separate categories. Here is one example from Gloucestershire, in England, in 1868: “[A] letter was received from the Home Secretary, pointing out the danger of permitting an accumulation of arms and accoutrements to take place in prisons, and requesting, if there were any arms or munitions of war stored in the prison, that they should be removed to the nearest military depot.”

50. A similar cite from Iowa in 1868 states: “Persons having in their possession any arms, accoutrements or ammunition belonging to the State, are requested to return the same at once to the Adjutant General, as proper places have

been provided by the State for the safe keeping of all such property.” *Cedar Falls Gazette* (Cedar Falls, Iowa).

51. And this, from Stroudsburg, Pennsylvania, also 1868, states: “More than half of the Seventh Cavalry (Custer’s) decamped with their horses, arms, and accoutrements, and probably made their way to the gold regions of Colorado and Montana.” *The Jeffersonian* (Stroudsburg, Pennsylvania).

52. The circa-1868 data confirmed the Founding Era data that “accoutrements” is primarily a military term, and that when “accoutrements” co-occurs with “arms,” the terms refer to separate categories of equipment.

53. One final note on “accoutrements”: the United States Supreme Court’s recent decision in *New York State Rifle and Pistol Association v. Bruen* (No. 20-843, 2022) references *North Carolina v. Huntley* (25 N.C. 418, 1843), a decision by the North Carolina Supreme Court affirming Huntley’s conviction for carrying a shotgun illegally “to the terror of the people,” as forbidden by the Statute of Northampton in 1328. In that decision, the North Carolina Supreme Court stated, “A gun is an ‘unusual weapon,’ wherewith to be armed and clad. No man amongst us carries it about with him, as one of his everyday accoutrements—as a part of his dress.”

54. In the citation above, “accoutrements” does not refer to weaponry, but to the more general category of “everyday attire, or clothing.” The court is saying

that it may be normal to wear a shirt, or a belt, or shoes, but it is not normal to wear a gun in North Carolina in 1843. It is legal—the court agrees—to carry a gun for any lawful purpose, “either of business or amusement”—but it is not normal or typical to do so. In affirming Huntley’s conviction, the court noted that his purpose in carrying a shotgun was not a legal one.

Some early use of the words “magazine” and “magazine wind gun,” along with instances of repeater air guns in the Founding Era

55. Although most uses of the word “magazine” still refer to printed periodicals, during the nineteenth century, one sense of the term *magazine* narrows, referring more and more to an “ammunition container,” a primary sense of the word in reference to firearms today. The OED defines *magazine*, sense IV b, as “A container or (detachable) receptacle in a repeating rifle, machine-gun, etc., containing a supply of cartridges which are fed automatically to the breech,” with the earliest citation in this sense from 1868. It is noteworthy that as late as 1867, the nautical dictionary *The Sailor’s Word-Book* retains the older definition of “magazine” as a gunpowder storage facility on land or at sea: “A place built for the safe-keeping of ammunition; afloat it is confined to a close room, in the fore or after part, or both, of a ship’s hold, as low down as possible; it is lighted occasionally by means of candles fixed in the light-room adjoining it, and no person is allowed to

enter it with a lamp or candle” (Admiral W. H. Smyth and Vice-Admiral Sir E. Belcher, *The Sailor’s Word-Book: An Alphabetical Digest of Nautical Terms*, London, 1867; the authors suggest that the placement of the magazine room “as low down as possible” minimizes the risk of a direct hit by enemy fire, and they note as well that no one is permitted to carry a lighted flame into the ship’s magazine room to minimize the risk of an accidental explosion; see ¶ 34, above, for the authors’ definition of the term “cartridge-box” to refer to the box or pouch used for transporting ammunition to a small arm or a large gun). In addition, Smyth and Belcher define “repeating fire-arm” as “One by which a number of charges, previously inserted, may be fired off in rapid succession, or after various pauses. The principle is very old, but the effective working of it is new.” Their definition—which does not mention “magazine” in connection with such guns—acknowledges the existence of earlier repeater guns, but judges them to have been ineffective. Only the repeater guns designed and manufactured in quantity during the period just before the dictionary’s publication in 1867 are actually judged to be “effective.” The earliest example in COHA of “magazine” referring to the ammunition compartment of is dated 1882: “Solitary travelers still find it prudent to make a display of a magazine rifle, and to keep a sharp eye on any roving bands” (E. V. Smalley, “The New North-West,” *Century*, September, 1882, pp. 769–79). COHA lists only 40 examples of “magazine rifle,” most of them between 1890 and 1930. “Magazine

gun” appears in the COHA data 16 times between 1920–2010. And an 1893 editorial in the *New York Times* refers to the army’s “new magazine rifle” (“New Powder for the Army,” *New York Times*, December 7, 1893, p. 4). However, as with a very few instances of “accoutrements” including “arms,” there are an extremely small number of early counterexamples between 1744 and 1820 where “magazine” refers to the bullet compartment of a gun—not a pistol or rifle using conventional gunpowder and bullets, but an air gun.

56. The common, single-shot “wind gun” or “air gun” used compressed air rather than ignited gunpowder to propel a ball, and was much quieter than a traditional gun. Although the air gun did not require powder or a match, the user had to re-charge the compressed air cylinder once the air had been expended. The writer Oliver Goldsmith found air guns to be useful for experiments in physics, adding, “THIS, however, is but an instrument of curiosity, and sometimes of mischief” (Oliver Goldsmith, *A survey of experimental philosophy, considered in its present state of improvement*, 1776). This newspaper story reports that the scientist Joseph Priestley was injured by an accidental discharge of an air gun: “We hear from Birmingham, that the celebrated Dr Priestley, in a late trial of some experiments with an air gun, was badly wounded by an accidental discharge of it; the ball with which it was loaded, passing thro’ one of his hands, and shattering it to pieces” (*The Leeds Intelligencer and Yorkshire General Advertiser*, June 5, 1781, p. 3).

57. A number of newspaper references suggest that its quietness made the air gun popular with criminals, and many references to air guns refer either to accidental discharges or to criminal assaults (for example, numerous newspaper accounts in 1785 suggested that the weapon which broke a window in the carriage of King George III was an air gun).

58. Air guns typically fired a single shot. However, there are references in the corpora to approximately eight inventors between 1744 and 1820 who built air guns capable of firing anywhere from 9 to 50 balls without reloading the ammunition or recharging the compressed-air cylinder. Lexical evidence suggests almost all of these repeater air guns were experimental models rather than guns available for military or civilian use.

59. The OED dates the term “magazine wind-gun” to 1744 in a reference to an air gun capable of firing more than one shot without reloading. “Magazine wind-gun” is the term used by its inventor, a man named L. Colbe. I have found no other examples of the term “magazine wind gun” in any database, suggesting that the phrase is a *hapax legomenon*, or “oncer,” terms that lexicographers use to define a word that merits a definition, but that does not appear anywhere else. Colbe also uses the term “magazine gun” for his device, and that term does occur twice more in the data, suggesting that it was never a common term. In an entry separate from its

entry for “magazine,” the OED marks the usage of both “magazine wind gun” and “magazine gun” as “rare” and “obsolete”:

†magazine wind-gun *n.* *Obsolete rare* a type of wind-gun fitted with a magazine of bullets. 1744 J. T. Desaguliers *Course Exper. Philos.* II. 399 An ingenious Workman call'd L. Colbe has very much improv'd it [sc. the old Wind-Gun], by making it a Magazine Wind-Gun; so that 10 Bullets are so lodg'd in a Cavity ... that they may be ... successively shot. [Oxford English Dictionary Online, s.v. magazine wind-gun.]

60. The OED citation is from John Theophilus Desaguliers, *A Course of Experimental Philosophy* (London, 1744), vol. II: 399-402. Desaguliers was a member of the Royal Society and an assistant to Isaac Newton specializing in mechanics and hydraulics. In his treatise, he offers an elaborate description of the common, single-shot wind gun, more typically referred to as an air gun, along with a three-page description of Colbe's so-called “Magazine Wind-Gun,” accompanied by a detailed drawing of the mechanism of that gun. I have found no biographical information about L. Colbe, inventor of the gun, and I have found no lexical evidence that Colbe made more than one such gun, or if he did, that it was produced in any significant numbers. Although Desaguliers suggests that this “magazine gun” may be “the best Defence against Highway-men, or Robbers that Travellers are aware of because when they have cause to suspect them, they may make five or six Discharges before a Thief can come within Pistol-Shot” (p. 402), there is no evidence in any of the corpora that Colbe's invention was ever used either by the military or by civilians for individual self defense. And there is no lexical evidence that the other repeater

air guns invented before the mid-nineteenth century were ever more than a curiosity until workable models of what we now call machine guns using conventional gunpowder and bullets, not compressed air and balls, were produced during and after the Civil War.

61. As further confirmation that the magazine wind gun was an anomalous and uncommon term, the OED definition of “magazine,” updated most-recently in 2022, gives the earliest date of the sense of the word as ‘a bullet-container’ as 1888. The corpus evidence confirms that the magazine wind gun is correctly dated by the OED as 1744, and I have found only two references to “magazine guns” in the 1790s and early 1800s, confirming that this usage of the word remained rare. “Magazine wind-gun” and “magazine gun” do not appear in the COEME or COFEA corpora. I have found no information in the corpora on the availability or popularity of such guns, but the sparse lexical data suggests that they were not in common use.

62. A small number of references to later repeater wind guns indicate they were made, not by armourers, but by clockmakers and other highly-skilled artists or artisans. There is no indication in the lexical evidence that repeater air guns were ever mass produced or publicly available in the Founding Era (1776-1820). Several of the citations I found treat these guns as curiosities and their owners charge a small fee to anyone interested in looking at them (and in one case, trying the gun out). Like Colbe’s wind gun, they seem to be rare inventions or curiosities, not weapons

commonly available to the military or to the American or English public. Besides Colbe's gun, there are only two examples from the data that use the word "magazine" in connection with a repeater air gun:

- a) 1784 – "An artist of this town [Birmingham, England; the artist is also identified as a compass maker] has lately invented a magazine gun, that will discharge 45 bullets separately in two minutes and a half, each bullet would kill an ox at 40 yards distance; it is only charged once, and aim is taken with more certainty than with the fowling piece" (*New York Packet and American Advertiser*, New York, NY, August 5, 1784).
 - b) 1815 – Advertisement for "one magazine Gun, when once loaded can be discharged ten times in a minute" (*New York Gazette*, Aug. 30, 1815).
63. The corpora contain just nine other references to repeater air guns, none

of them using the word "magazine":

- a) 1783 – "Vienna. A watchmaker has invented an Air Gun, which, without recharging, fires 15 times successively. A corps of Hunters are to be armed with these guns." (*The Newcastle Weekly Courant* (England), May 10, 1783, p. 3). There is no follow-up to indicate whether the corps of Viennese hunters did employ such a weapon.
- b) 1792 – A number of American newspapers report on the invention by a man, only identified as someone from Rhode Island, of a repeating air gun capable of firing twenty times without reloading. Here is one: "A person in Rhode Island has invented an Air-gun, which can be discharged, to do execution, 20 times, each time it is loaded.—As nothing is cheaper, and easier to be transferred, than the ammunition for the above pieces; and as saving much expense, they recommend themselves strongly to the Secretary at War, to be used in the approaching campaign against the Indians" (*National Intelligencer: National Gazette*, April 26, 1792, p. 3). There is no indication that the Secretary of War acted on this suggestion. In fact, the following advertisement suggests that the repeater air gun in question was treated as a curiosity to be admired in a museum:

- c) 1792 – “An air-gun, made by a young man, a native of Rhode-Island, but now resident in this city [New York], and which has been purchased by the subscriber, with a view eventually to make it the property of the American museum but wishes to reimburse himself in the following manner, viz. He will exhibit it to the examination of all persons desirous of viewing it, and of discharging a shot, for which they shall pay six-pence. This gun, when properly filled with air, will do execution twenty times, without renewing the charge, and for several times will send a ball thro’ an inch board, at the distance of sixty yards, to be seen at the subscribers, No. 13 Maiden Lane, every day in the week, from 10 to 12 in the forenoon, and from 3 to 5 in the afternoon, Tuesday and Friday afternoons excepted, at which time it may be seen at the Museum. Gardiner Baker, Keeper of the Museum” (*New York Daily Advertiser*, February 9, 1792).
- d) 1796 – “This carabine, lighter and smaller than the common ones, is composed of two barrels, the smallest of which contains 25 balls: and by a slight movement, they pass from the one to the other; which ball, by lowering the firelock, goes off with the same rapidity and carries further than if fired with powder, without the least noise, and that as often as a hundred times alternately, during the space of 8 or 10 minutes; after which, the reservoir being exhausted, it requires to pump in fresh air, which takes up at most, 16 minutes (*The Independent Gazetteer* (Philadelphia), August 6, 1796, p. 1). This report adds that the repeater air gun, invented in the reign of Emperor Joseph II (reg. 1765–1790), was distributed to German troops, and that a sample weapon was given to the Prince of Wales. The writer suggests such guns would be useful at sea, since they are not affected by dampness. But there is no indication in the corpora that the Royal Navy ever considered such a weapon.
- e) 1797 – “An Air GUN has been constructed by Messrs. Darlings and Wilkinson, of Cumberland, Rhode Island, upon a plan entirely new. It can be discharged twelve times with once loading, and will do execution with great exactness, at fifty yards distance” (*Columbian Centinel* (Boston), June 21, 1797).
- f) 1801 – Multiple newspapers run the story of a repeater air gun invented by a man known as Girardami, identified as a peasant, artist, and watchmaker, and variously referred to in gun history articles as Girandoni or Girardoni (those spellings do not appear in the corpora

that I consulted): “Girardami, a Tyrolese peasant, and self-taught artist, has invented an air-gun, which may be discharged fifty times without pumping again. The first twenty shots penetrate through a door at an uncommon distance. Girardami makes these air-guns himself, and likewise very good wooden watches” (*The Caledonian Mercury* (Edinburgh), March 2, 1801, p. 2).

- g) 1802 – The Newly-Invented Philosophical Air Gun That can be used as Gun or Pistol, and discharge 20 balls with one loading of the globe [that is, the compressed-air cylinder], unless the charge of air is let out at once. To be seen at Mr. Wyant’s tavern, Market street, both night and day. Admittance one fourth of a dollar (*Telegraphe and Daily Advertiser* (Baltimore), March 17, 1802). “Philosophical” in this sense is often used to refer to physicists experimenting with air guns to measure air temperature, pressure, and volume, among other things (see, for example, the work of Desaguliers and the experiments of Goldsmith and Priestley mentioned above).
- h) 1807 – An ad for an auction includes, among other items, “an air gun in compleat order which, when loaded will discharge twenty five times after being pumped” (*American Citizen* (New York, NY), May 28, 1807).
- i) 1814 – One article in the corpora refers to a repeater air gun taken by Lewis and Clark on their expedition to the Pacific some eight years earlier, though the article itself has nothing to do with the expedition. Instead, this letter to the newspaper, criticizing a politician for repeating the same things that he has been saying for years, suggests as well that the Lewis and Clark repeater air gun was used not for hunting or warfare but rather to dazzle the Indians that the explorers encountered with their “great medicine,” thereby ensuring a peaceful encounter: “he [the politician in question], forthwith, becomes a “great medicine,” as the Shoshones called captain Lewis’ air gun”(*National Advocate*, Mar. 23, 1814). This article was written ten years after the start and eight years after the completion of the expedition. I did not find any contemporaneous articles or firsthand accounts in the corpora of such a gun or how it may have been used.
- j) 1819 – Finally, there is an ad for a French repeater air gun, for sale at 90 crowns: “which discharges 20 times before the air is expended” (*Salem Gazette* (Massachusetts), February 5, 1819).

64. To summarize: the corpus data shows that the terms “magazine gun,” “magazine wind gun,” and “magazine air gun” are extremely rare, occurring a mere three times in the corpora, along with nine instances of repeater air guns that do not include the word “magazine.” In contrast, there are approximately 1,200 references to the single-shot “air gun” in the several databases that I consulted. Subtracting an estimated 150 duplicates, that leaves about 1,050 references to a single-shot air gun. Two of the references, ¶ 65 (b) and (d) in the list above, suggest that they would be useful weapons for the military; one, ¶ 65 (a) above, recommends their use to hunters; and one writer, Desaguliers, in 1744 (above, ¶ 62), speculates that the weapon could be useful for self-defense. But for the most part, the references listed above to early repeater guns seem to be treated as curiosities: marvels of engineering constructed by clockmakers or other skilled artisans, items to be seen in a museum or exhibited at a tavern (*see* examples ¶ 65 (c) and (g) above). There is no lexical evidence that they were manufactured in quantity. Their mechanisms were complex, requiring a clockmaker’s skill to design, make, and repair. And it took time to recharge the air cylinder (one source in the list above, ¶ 65 (d), suggests sixteen minutes for one such repeater air gun, which would render them suboptimal in battle situations). A couple of entrepreneurs charged admission to view them (¶ 65 (c) and (g) above), and in one case, in ¶ 65 (c) above, patrons may pay six pence to try shooting the gun. The writer who cites the Lewis and Clark repeater gun ((¶ 65 (i))

suggests that the explorers used the gun to “impress” potentially hostile Native Americans rather than as a weapon against them. It too may have been a one-off. Furthermore, only three of the twelve references to repeater air guns refer to the bullet container as a “magazine,” a further indication that this usage of “magazine” is extremely rare before 1820 (*see* ¶¶ 57 and 60, above).

65. With advances in the design and manufacture of guns and ammunition, by the mid-nineteenth century, the term “magazine” starts to appear in the sense ‘ammunition container’ (gradually replacing the earlier terms “cartridge box” or “cartridge case”), not in air guns but in ones using gunpowder and bullets.

66. COFEA and COEME do not cover the period past 1800. COHA, which does have nineteenth century coverage, turns up only a handful of uses of “magazine” in collocation with bullets, guns, rifles, or weapons in the 1890s, and only three such uses cited above before 1820. Most COHA cites for “magazine” refer to print magazines; a smaller number from 1820–1880 refer to gunpowder storehouses.

67. Searching the word “magazine” in newspapers.com results in more than 3.3 million hits, the vast majority of them also referring to print journals. It is not currently possible to tease out the subset of these citations to determine exactly how many refer to weapons rather than print journals. I did try to estimate, indirectly, the frequency of the gun-specific use of “magazine” by running a Google n-gram search.

68. Google’s n-gram viewer searches the corpus of digitized Google Books. It can give a rough approximation of a word’s frequency in relation to the other words in the Google Books corpus. The results appear as a graph. The n-gram viewer is capable of showing the relative frequency of several words on the same graph. My n-gram search showed that between 1750–1880 the word “magazine” occurs with a frequency of 0.0005121511% in 1789 and a frequency of 0.0007324368 in 1880.² A search for “magazine gun” returns no hits for that same period. But a search for “magazine rifle” shows that it does not appear in the database before 1813; there are few instances from 1813 to 1820, with a frequency of 0.0000000185%; and then a sharp rise between 1863 and 1880, when the frequency reaches a high of 0.000000936%, reflecting both the increased use of the revolver and the invention of repeating rifles and machine guns during the Civil War.³ The Google n-gram data shows that the use of “magazine” in the Founding Era was not associated with guns. By 1880, the association with guns had become more common. Comparing the use of “magazine” in 1880 in all contexts with the use of “magazine rifle” that same year, it appears that the gun-related sense of “magazine” represents approximately 0.0012% of the occurrences of the word “magazine.” In other words,

²https://books.google.com/ngrams/graph?content=magazine&year_start=1750&year_end=1880&corpus=en-2019&smoothing=3).

³(https://books.google.com/ngrams/graph?content=magazine+rifle&year_start=1750&year_end=1880&corpus=en-2019&smoothing=3).

the association exists in the period surrounding the ratification of the Fourteenth Amendment, but it is still a rare term.

69. The n-gram estimate, together with the sparse evidence in COHA and the OED, all suggest that “magazine” in the sense “device for holding bullets” forms only a very small subset of the 3.3 million occurrences of “magazine” in the newspaper corpora. Although “magazine” in the gun-related sense shows a distinct rise between 1864 and 1880, it took another thirty to forty years for the “bullet holder” sense of the word “magazine” to become more common. Even then, text references to ammunition magazines often appear, not in general discourse, but in legislation passed early in the twentieth century restricting their size or use.

70. Most militia laws and regulations from the Founding Era specify minimum requirements for soldiers’ weapons, ammunition, and accoutrements. Most laws regulating weapons in the mid-nineteenth century restrict or ban specific kinds of weapons, often enumerating them, sometimes in terms we find colorful today but which were common at the time (Arkansas toothpicks, Bowie knives, slung shots, swords in canes, pistols capable of being concealed in a pocket). Occasionally, these laws further identified such weapons as those used by “brawlers,” thieves robbers, or others bent on illegal activities. Other weapons restrictions follow the English tradition of limiting possession of weapons by social class, nationality, or race.

71. I surveyed the gun regulations in the Duke Historical Database (firearmslaw.duke.edu) from the early medieval period through 1885 to see what terminology was used. Although militia laws do specify weapons and other required accoutrements or pieces of military equipment, including horses for the officers, those laws that prohibit certain kinds of weapons during the two critical periods (1789–1810; 1868–1880) do not single out *parts* of weapons. Here is one exception, from a 1776 Maryland statute: “Resolved, that no muskets or rifles, except by the owner thereof on his removal to reside out of this province, or any gun barrels, gun locks, or bayonets, be carried out of this province, without the leave of the council of safety for the time being.” [Proceedings of the Conventions of the Province of Maryland Held at the City of Annapolis, in 1774, 1775, & 1776, 147]

72. None of the laws that prohibit weapons, aside from the Maryland statute mentioned above, specifies a gun part or ammunition case or accoutrements of any kind. Although many present a list of banned or prohibited weapons—usually without defining them (the assumption is that the reader knows what they refer to), none of the laws mention cartridge boxes, bullets, barrels, or other parts of any weapons.

73. Later however, in the decades after the introduction of “magazines” as ‘carriers or holders of one or more bullets,’ laws and regulations against their nonmilitary use started to appear. A 1919 Maine law bans guns with loaded

magazines: “No person shall have a rifle or shotgun, either loaded or with a cartridge in the magazine thereof, in or on any motor vehicle while the same is upon any highway or in the fields or forests.” [1919 Me. Laws 193, Possession of loaded shotgun or rifle in motor vehicle on highways, fields or forests prohibited; penalty.]

74. Laws banning “machine guns” or firearms with “magazines” capable of firing multiple times without reloading appear in Vermont (1923 Vt. Acts and Resolves 127, An Act to Prohibit the Use of Machine Guns and Automatic Rifles in Hunting, § 10); Rhode Island (1927 R. I. Pub. Laws 256, An Act to Regulate the Possession of Firearms), and Massachusetts (1927 Mass. Acts 145, An Act Relative to Machine Guns and Other Firearms, ch. 326), among other states. In defining “machine gun,” Rhode Island’s law bans magazines which fire automatically or which hold more than twelve rounds: “‘machine gun’ shall include any weapon which shoots automatically and any weapon which shoots more than twelve shots semi-automatically without reloading.”

75. A 1933 Texas law bans “machine guns” capable of firing “more than five (5) shots or bullets.” [1933 Tex. Gen. Laws 219–20, 1st Called Sess., An Act Defining “Machine Gun” and “Person”; Making It an Offense to Possess or Use Machine Guns, ch. 82]

76. Finally, the Federal Firearms Act of 1934, which introduced a nationwide system of taxes, fees, and registration requirements for the transfer of

certain types of guns, specifies in great detail the nature of the “firearms” covered by the statute, including their barrel length and type of firing mechanisms: “(a) The term ‘firearm’ means a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition.”

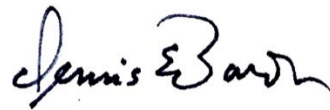
77. The Act also provides a specific definition of “machine gun”: “(b) The term ‘machine gun’ means any weapon which shoots, or is designed to shoot, automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger.” [48 Stat. 1236. 73rd Congress, 2nd Session, Ch. 757, HR 9741].

Conclusion

78. To repeat, there is virtually no lexical data that I have found showing that “arms” includes “accoutrements,” “cartridge boxes,” “cartouch boxes,” “magazines,” or any other parts of weapons. To the contrary, while “arms” is used as a general term for weapons (typically swords, knives, rifles, and pistols), it does not include ammunition, ammunition containers, flints, scabbards, holsters, armor, or shields, which are included in the category “accoutrements.” And there is no evidence from the small number of mentions of the repeater air guns in the databases

before the Civil War that such guns were used in the Founding Era by the American or British military, or that they were widely available in that period to civilians for hunting or self-defense.

I declare on this 13th day of February, 2023, that the foregoing is true and correct under penalty of perjury under the laws of the United States.

A handwritten signature in black ink that reads "Dennis Baron". The signature is written in a cursive style with a horizontal line underneath the name.

Dennis Baron

DENNIS BARON

Professor of English, Emeritus
Research professor of English
University of Illinois at Urbana-Champaign
Home: 1801 Foxborough Ct
Champaign IL 61822-8501

email: debaron@illinois.edu
Web Page url: <http://faculty.las.illinois.edu/debaron/>

VITA

Education:

Ph.D., University of Michigan (English Language and Literature), 1971.
M.A., Columbia University (English and Comparative Literature), 1968.
A.B., Brandeis University (English and American Literature), 1965.

Positions held:

Research Professor of English and linguistics, University of Illinois, 2018–present.
Professor English, Emeritus, University of Illinois, 2018–present.
Professor of English and Linguistics, University of Illinois at Urbana-Champaign, 1984–2018.
Head, Department of English, University of Illinois at Urbana-Champaign, 1998–2003.
Acting Head, Department of English, Univ. of Illinois at Urbana-Champaign, 1997–98.
Director of Rhetoric, University of Illinois, 1985–97.
Director, Writing Outreach Workshop, Univ. of Illinois, 1985–88.
Professor, Campus Honors Faculty, Univ. of Illinois, 1988–2018.
Professor, College of Education, UIUC, Summer 1988.
Associate Professor of English and Linguistics, Univ. of Illinois, Urbana-Champaign, 1981–84.
Assistant Professor of English and Linguistics, Univ. of Illinois, Urbana-Champaign, 1975–81.
Assistant Professor of English, The City College of CUNY, 1973–74.
Assistant Professor of English, Eastern Illinois University, 1971–73.

Fellowships and Grants:

John Simon Guggenheim Memorial Foundation Fellow, 2016–17.
Faculty Fellow, Program for the Study of Cultural Values and Ethics, Univ. of Illinois, Spring 1992.
National Endowment for the Humanities Fellowship, calendar year 1989.
Newberry Library National Endowment for the Humanities Fellowship, 1988–89 (offered, not held).
IBM Project Excel Grant C-41, 1986-87: “Computer Analysis of Student Writing.”
Associate, Center for Advanced Study, University of Illinois 1984–85.
Fulbright Lecturer, University of Poitiers, France, 1978–79.
Fellow, Center for Advanced Study, University of Illinois, 1978 (offered, not held).
University of Illinois Research Board grants, multiple years, 1978–2017.

Books:

1. *You Can't Always Say What You Want: The Paradox of Free Speech*. Cambridge University Press, 2023. (Available Dec., 2022).

2. ***What's Your Pronoun? Beyond He and She.*** Liveright, 2020; paperback, 2021. Reviews: *New York Times Book Review*, *The Times* (London); *The London Review of Books*; *Harpers*; *The Atlantic*; *The Economist*; *Attitude*.
3. ***A Better Pencil: Readers, Writers and the Digital Revolution.*** Oxford University Press, 2009, pp. xviii + 259. Paperback edition, 2012. Chinese translation, 2012. Reviews: *Salon*; *City Journal*; History News Network; *The Scotsman*; *Library Journal*; *internet review of books*; *Montreal Mirror*; Innovation Leadership Network; mantex.com (Manchester, England); *The Star* (Malaysia); *Times Higher Education*; *International Journal of Communication*; *The Guardian*; *Choice*; *American Scientist*; *3quarksdaily*, *The New Yorker*; *Arts Journal*.
4. ***Guide to Home Language Repair*** (questions, answers, and essays on the English language). National Council of Teachers of English (1994), viii + 165. Reviews: *Boston Book Review*; *New York Times Magazine*.
5. ***The English-Only Question: An Official Language for Americans?*** Yale University Press, 1990; paper ed., 1992. Reviews: *Publishers Weekly*; *Washington Post Book World*; *Booklist*; *Library Journal*; *Education Week*; *Hazel New York City Tribune*; *The Bookwatch—Midwest Book Review*; *Change*; *Choice*; *The Jerusalem Post*; *Times Literary Supplement*; *American Political Science Review*; *Book Review Digest*; *American Journal of Sociology*; *Publishers Weekly*; *College English*; *Modern Language Journal*; *Language Problems and Language Planning*; *Language*.
6. ***Declining Grammar and Other Essays on the English Vocabulary*** National Council of Teachers of English. Reviews: *Newsweek* (Dec. 11, 1989), p. 71; William Safire, *New York Times Magazine*; *The State Journal-Register* (Springfield, IL); *The Chicago Tribune*; *The Chicago Sun-Times*; *The Denver Post*; *Library Materials Guide*; *Book Report*; *NATE News*; *Language*; *Young Adult Paperback Book Guide*.
7. ***Grammar and Gender*** Yale University Press, 1986; paper ed., 1987. Reviews: *Kirkus Reviews*; *Publishers Weekly*; *Patriot Ledger* (Quincy, MA); *The Washington Times Magazine*; John Simon, *The New Leader*; *Chronicle of Higher Education*; *Los Angeles Times*; *Library Journal*; *Insight*; *Champaign-Urbana News-Gazette*; *Choice*; *Language Monthly*; *The Times Literary Supplement*; *Psychology Today*; *Virginia Quarterly Review*; *The Toronto Star*; *ETC.*; *Book Review Digest*; *Chicago Tribune*; *Akron (OH) Beacon Journal*; *Clearwater (FL) Sun*; *Corpus Christi (TX) Caller-Times*; *Wilkes-Barre (PA) Times Leader*; *Troy (NY) Record*; *The Editorial Eye*; *Studies in the American Renaissance*; *Lingua*; *Modern Language Review*; *Review 9*; *American Speech*; *Southern Quarterly Review*; *Signs*; *Language*; *JEGP*; *Frontiers*; *Anglia*; *Journal of English Linguistics* Nominated for the Mina P. Shaughnessy Medal of the Modern Language Association.
8. ***Grammar and Good Taste: Reforming the American Language*** Yale University Press, 1982; paper ed., 1984. Reviews: *Library Journal*; *America*; *The New York Times Book Review*; *The Washington Post Book World*; *Chronicle of Higher Education*; *The Times* (London); *The Los Angeles Times Book Review*; *Journal of American History*; *Encounter*; *American Literature*; *Journal of American Studies*; *Amerikastudien*; *Book Review Digest*; *Journal of English and Germanic Philology*; *Technical Communication*; *The Augusta Chronicle, Augusta Herald*; *American Studies*; *South Atlantic Quarterly*; *English Language Notes*; *World Literature Today*; *History of Education Quarterly*; Caroline Bokinsky, *Studies in the American Renaissance*; *Etudes Anglaises*; *Review of English Studies*; *College Composition and Communication*; *American Speech*; *Anglia*; *Book Review Digest*; *ESQ*; *English Journal*. Selected for the "Editor's Choice" section of *The New York Times Book Review*. Selected by the Library of Congress for recording for the blind. Nominated for the 1982 Mina P. Shaughnessy Medal and the 1987 James Russell Lowell award of the Modern Language Association; selected by the Editorial Board of the National Council of Teachers of English for distribution as an affiliate publication of the NCTE.

9. ***Going Native: The Regeneration of Saxon English.*** Publication of *The American Dialect Society*, No. 69, University of Alabama Press, 1982.
10. ***Case Grammar and Diachronic English Syntax.*** Mouton, 1974. Reviews: *Linguistics*; *Indogermanische Forschungen*; *The Year's Work in Old English Studies*; *Revue Belge de Philologie et d'Histoire*.

Supreme Court Amicus Briefs:

Brief for Corpus Linguistics Professors and Experts as Amici Curiae Supporting Respondents. *New York State Rifle and Pistol Assn. v. Bruen*, No. 20-843 (2022). [Cited by J. Breyer in his dissent]

Brief for Professors of Linguistics and English Dennis E. Baron, Ph.D., Richard W. Bailey, Ph.D., and Jeffrey P. Kaplan, Ph.D. in support of petitioners. *District of Columbia, et al., v. Dick Anthony Heller*. 554 U.S. 570 (2008)

Recent Media:

“Does the Second Amendment Actually Give You the Right to Own a Gun?” *Think*, with Andrew Miller, NBC News, May 26, 2022. <https://www.nbcnews.com/think/video/does-the-2nd-amendment-actually-give-you-the-right-to-own-a-gun-140886597910>

“The Plain Language Movement.” Part of Stephen Fry’s series “English Delight,” BBC Radio 4, August 2014.

“Latinos in America.” PBS Documentary aired in Oct. 2013. In episode 6 of the 6-part series I discuss official English, bilingualism, and minority language rights.

Book Chapters:

1. “Post on Facebook, go directly to jail.” Rpt. in Roen, Duane, ed., *McGraw-Hill Guide: Writing for college, writing for life*. Forthcoming, January, 2017.
2. “Don’t make English official, ban it instead.” Rpt. in Roen, Duane, ed., *McGraw-Hill Guide: Writing for college, writing for life*. Forthcoming, January, 2017.
3. “Facebook multiplies genders but offers users the same three tired pronouns.” Melissa Goldthwaite, et al., eds. *The Norton Reader*, 14/e New York: W.W. Norton. Forthcoming, January, 2016.
4. “Facebook multiplies genders but offers users the same three tired pronouns.” *The Little Norton Reader*. New York: W.W. Norton. A special edition containing 50 essays from the first 50 years, to celebrate the 50th anniversary of *The Norton Reader*. Forthcoming, 2016.
5. “Who owns global English?” *The Norton Reader*, ed. Linda H. Peterson and John C. Brereton. New York: Norton.
6. “Should Everybody Write?” In Andrea Lunsford, *Everyone’s an author, with readings*. New York, NY: W. W. Norton, 2012
7. “The Noun Game: A simple grammar lesson leads to a clash of civilizations.” *The Simon and Schuster Short Prose Reader*. Robert Funk, Susan Day, et. al. Boston: Prentice Hall, 2011. Pp. 128-34.
8. “#Twitter Revolution.” *They Say, I Say, with Readings 2e*. New York: W.W. Norton, 2012.
9. “The More Things Change: Language and Education.” In Anne Curzan and Michael Adams, eds., *Contours of English*. Univ. of Michigan Press (2010).
10. “The New Technologies of the Word.” In Keith Walters and Michal Brody, eds., *What’s Language Got to Do with It?* New York: W. W. Norton, 2005, pp. 136-51. Rpt. in Lynn Bloom and Louise Smith, *The Arlington Reader*, 2e., New York: Bedford/St. Martin’s, 2008; rpt. 2010.

11. "Don't Make English Official—Ban It Instead." [rpt. of 1996 essay]. In Keith Walters and Michal Brody, eds., *What's Language Got to Do with It?* New York: W. W. Norton, 2005, pp. 477-79.
12. "Forget Everything You Learned About Writing." In Chris Anson, ed., *The WAC Casebook: Scenes for Faculty Reflection and Program Development*. New York: Oxford Univ. Press, 2003, pp. 261-65.
13. "Language Legislation and Language Abuse: American Language Policy through the 1990s." In *Language Ideologies: Critical Perspectives on the Official English Movement*, vol. 2: History, Theory and Policy, ed. Roseann D. Gonzalez with Ildiko Melis (Urbana: NCTE, and Lawrence Earlbaum Assoc., 2001), pp. 5-29.
14. "From Pencils to Pixels: The Stages of Literacy Technologies." In *Passions, Pedagogies and 21st-Century Technologies*, ed. Gail Hawisher and Cynthia Selfe (Logan: Utah State Univ. Press and the National Council of Teachers of English, 1999), pp. 15-33. [This is the lead essay in the book.] Rpt. in Ellen Cushman, Eugene R. Kintgen, Barry M. Kroll, and Mike Rose, eds., *Literacy: A Critical Sourcebook*. Boston: Bedford St. Martin's, 2001. Pp. 70-84.
15. "An Official Language." Rpt. (from *The English Only Question*) in *Writing About Diversity: An Argument Reader and Guide*, ed. Irene L. Clark (Fort Worth: Harcourt Brace, 1994), pp. 284-302.
16. "Language Is the Enemy." Rpt. (from *Declining Grammar*) in *Dimensions of Language*, ed. Boyd Davis. (New York: Macmillan, 1993), pp. 427-31.
17. "Language, Culture, and Society," in *Introduction to Scholarship in Modern Languages and Literatures*, ed. Joseph Gibaldi. 2nd ed. (New York: Modern Language Association, 1992), pp. 28-52.
18. "Federal English and the Constitution," rpt. in *Language Loyalties*, ed. James Crawford. Chicago: Univ. of Chicago Press (1992), pp. 36-40.
19. "The Legal Status of English in Illinois: Case Study of a Multilingual State," in *Not Only English: Affirming America's Multilingual Heritage*, ed. Harvey A. Daniels (Urbana: National Council of Teachers of English, 1990), pp. 13-26.
20. "Watching Our Grammar: The English Language for English Teachers," in *On Literacy and Its Teaching: Issues in English Education*, ed. Gail Hawisher and Anna Soter (Albany: State Univ. of New York Press, 1990), pp. 208-23. [Review: Sharon J. Hamilton, *College English* 55 (1993): 794-800.
21. "Watching Our Grammar" (rpt. from *Grammar and Good Taste*), in *The Story of English: Study Guide and Reader* (Dubuque, IA: Kendall/Hunt, 1986).
22. "Nonstandard English, Composition, and the Academic Establishment," 1975; rpt. in *Readings in Applied English Linguistics*, ed. Harold B. Allen and Michael Linn, 3rd. ed. (New York: Alfred Knopf, 1982), pp. 436-43.

Recent Articles:

1. "Look it up in your *Funk & Wagnalls*: How Courts Define the Words of the Law," *Dictionaries* (forthcoming).

2. "Corpus Evidence Illuminates the Meaning of Bear Arms," *Hastings Constitutional Law Quarterly* 46.3 (2019): 509–22.
3. "A brief history of singular 'they,'" *Oxford English Dictionary Blog*, Sept. 4, 2018. https://public.oed.com/blog/a-brief-history-of-singular-they/#__prclt=9gZeU4Sf
4. "Antonin Scalia Was Wrong about the Meaning of 'Bear Arms,'" *Washington Post*, May 21, 2018. https://www.washingtonpost.com/opinions/antonin-scalia-was-wrong-about-the-meaning-of-bear-arms/2018/05/21/9243ac66-5d11-11e8-b2b8-08a538d9dbd6_story.html?utm_term=.9f23ab854a09
5. "Nowadays, 'Like' Just Means 'Uh-Huh'" *Visual Thesaurus*. August 11, 2014. <http://www.visualthesaurus.com/cm/wc/nowadays-like-just-means-uh-huh/> *Vocabulary.com* <http://www.vocabulary.com/articles/wc/nowadays-like-just-means-uh-huh/>
6. "America's war on language." *OxfordWords Blog*. Sept. 17. <http://blog.oxforddictionaries.com/2014/09/americas-war-language/> *Days and Memories Blog*. <http://hgmsblog.weebly.com/blog/americas-war-on-language> Sept. 3.
7. "Changing gender in language isn't easy." *New York Times*, "Room for Debate" Oct. 19, 2014. <http://nyti.ms/1tDISSa>
8. "Nobody likes a whistleblower, wayer, snitch, narker, denunciator, quadruplator, or emphanist." *Visual Thesaurus*. Feb. 23, 2014.
9. "Plain English: It's the law." *Visual Thesaurus*. Feb. 7, 2014. <http://www.visualthesaurus.com/cm/wc/plain-english-its-the-law/>
10. "Banning words for the new year." *Vocabulary.com*. January 20, 2014. <http://www.vocabulary.com/articles/wc/banning-words-for-the-new-year/> *Visual Thesaurus*. January 20, 2014. <http://www.visualthesaurus.com/cm/wc/banning-words-for-the-new-year/>
11. "Dennis Baron's Word of the Year for 2013: 'marriage'" *Visual Thesaurus*. Dec. 24, 2013. <http://www.visualthesaurus.com/cm/wc/dennis-barons-word-of-the-year-for-2013-marriage/>
12. "The highest dictionary in the land?" *Oxford University Press Blog*. June 23, 2013. <http://bit.ly/11UkV54>
13. "The highest dictionary in the land?" *Visual Thesaurus*. June 24, 2013. <http://bit.ly/11GYbGK>
14. "Will the real Gettysburg Address please stand up?" *Visual Thesaurus*. Nov. 19, 2013. <http://www.visualthesaurus.com/cm/wc/will-the-real-gettysburg-address-please-stand-up/>
15. "Pens and Pencils Down: New York City's 'Banned Words' Controversy." *Visual Thesaurus*. April 4, 2012. <http://www.visualthesaurus.com/cm/wc/3212/>
16. "Wikipedia: Write first, ask questions later." Rpt. in James C. McDonald, *The Reader*. New York: Pearson, 2012.
17. "Learning not to curse in Arizona." *Oxford Univ. Press blog*. May 27, 2012
18. "Why we misread." *Visual Thesaurus*. July 3, 2012. <http://www.visualthesaurus.com/cm/wc/why-we-misread/>
19. "Grammar freaks really are strange." *Cultural Weekly*. July 19, 2012. <http://www.culturalweekly.com/grammar-freaks-strange.html>
20. "Grammar sticklers may have OCD." *Oxford Univ. Press Blog*. Aug. 18, 2012. <http://blog.oup.com/2012/08/grammar-sticklers-may-have-ocd/>
21. "The e-reader over your shoulder." *Visual Thesaurus*. Nov. 12, 2012. <http://www.visualthesaurus.com/cm/wc/the-e-reader-over-your-shoulder/>
22. "The e-reader over your shoulder." *Oxford University Press blog*, Nov. 24, 2012. http://blog.oup.com/2012/11/the-e-reader-over-your-shoulder/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+oupblog+%28OUPblog%29
23. "Apple patents page-turning. What's next, the letter 'i'?" *Visual Thesaurus*. Nov. 27, 2012. <http://www.visualthesaurus.com/cm/wc/apple-patents-page-turning-whats-next-the-letter-i/>
24. "Dennis Baron's Word of the Year for 2012 is #hashtag." *Visual Thesaurus*, Dec. 16, 2012. <http://www.visualthesaurus.com/cm/wc/dennis-barons-word-of-the-year-for-2012-hashtag>
25. "No laptops: Classroom bans on digital devices are spreading." *Visual Thesaurus*, Jan. 14, 2013. <http://www.visualthesaurus.com/cm/teachersatwork/no-laptops-classroom-bans-on-digital-devices-are-spreading/>

26. "National Grammar Day in Wartime." *Visual Thesaurus*. Mar. 4, 2013.
<http://www.visualthesaurus.com/cm/wc/national-grammar-day-in-wartime/>
27. "The Great Language Change Hoax." *Academe*. (The AAUP blog). April 1, 2013.
<http://academeblog.org/2013/04/01/the-great-language-change-hoax/>
28. "English-only in the exit row." *Oxford Univ. Press Blog*. April 29, 2011.
<http://blog.oup.com/2011/04/exit-row/>
29. "The most human computer?" *Oxford Univ. Press Blog*. May 5, 2011.
<http://blog.oup.com/2011/05/human-computer/>
30. "Teaching commas won't help." *Visual Thesaurus*, May 16, 2011.
<http://www.visualthesaurus.com/cm/wc/2848>
31. "Teaching commas won't help." *Oxford Univ. Press Blog*. June 14, 2011.
<http://blog.oup.com/2011/06/teaching-commas/>
32. "Webster's lays down the law." *Visual Thesaurus Magazine*. June 15, 2011.
<http://www.visualthesaurus.com/cm/dictionary/2883/>
33. "But the dictionary says. . ." *Oxford Univ. Press Blog*. June 27, 2011.
<http://blog.oup.com/2011/06/dictionary-courtroom/>
34. "Content-Free Prose: Death of Writing or Next Big Thing?" *Visual Thesaurus*. June 29, 2011.
http://www.visualthesaurus.com/cm/wc/2893?utm_source=rss
35. "Content-Free Prose: Death of Writing or Next Big Thing?" *Oxford Univ. Press Blog*. July 8, 2011. <http://blog.oup.com/2011/07/content-free-prose/>
36. "Are laws requiring English signs discriminatory?" *Oxford Univ. Press Blog*. July 21, 2011.
<http://blog.oup.com/2011/07/english-signs/>
37. "Computers remember so you don't have to." *Oxford Univ. Press Blog*. July 28, 2011.
<http://blog.oup.com/2011/07/google-effect/>
38. "That ugly Americanism? It could well be British." *Oxford Univ. Press Blog*. Aug. 5, 2011.
<http://blog.oup.com/2011/08/ugly-americanism/>
39. "New words are great for back to school." *Visual Thesaurus*. Aug. 30, 2011.
http://www.visualthesaurus.com/cm/dictionary/2956/?utm_source=rss
40. "New words are great for back to school." *Oxford Univ. Press Blog*, Sep. 1, 2011.
<http://blog.oup.com/2011/09/school-words/>
41. "The linguistic impact of 9/11? '9/11' itself." *Visual Thesaurus*. Sep. 12, 2011.
<http://www.visualthesaurus.com/cm/dictionary/2969/>
42. "The linguistic impact of 9/11." *Oxford Univ. Press Blog*. Sep. 12, 2011.
<http://blog.oup.com/2011/09/linguistic-impact/>
43. "The only linguistic impact of 9/11 is '9/11' itself." *Cultural Weekly*, Sep. 14, 2011.
<http://www.culturalweekly.com/only-linguistic-impact-of-911-is-911-itself.html>
44. "Are there alternatives to global English?" *Visual Thesaurus*. Sept. 27, 2011.
<http://www.visualthesaurus.com/cm/wc/2985/>
45. "Is resistance futile? Are there alternatives to global English?" *Cultural Weekly*. Sept. 29, 2011.
<http://www.culturalweekly.com/is-resistance-futile-are-there-alternatives-to-global-english.html>
46. "Resistance may be futile: Are there alternatives to global English?" *OUP Blog*, Oct. 11, 2011.
<http://blog.oup.com/2011/10/global-english/>; reposted in the Daily Beast, Oct. 12, 2011.
<http://andrewsullivan.thedailybeast.com/2011/10/english-has-taken-over.html>
47. "Is this the last print dictionary?" *Cultural Weekly*. Oct. 19, 2011.
<http://www.culturalweekly.com/is-this-the-last-print-dictionary.html>
48. "The laws of English punctuation." *Visual Thesaurus*. Oct. 24, 2011.
<http://www.visualthesaurus.com/cm/wc/3011/>
49. "Talk like Shakespeare Day." *Cultural Weekly*. Oct. 27, 2011.
<http://www.culturalweekly.com/talk-like-shakespeare-day.html>
50. "Occupy Wall Street: Can the revolution be trademarked?" *Oxford University Press Blog*. Nov. 28, 2011. <http://blog.oup.com/2011/11/occupy-trademark/>
51. "Dennis Baron's Word of the Year for 2011: 'Volatility.'" *Visual Thesaurus*. Dec. 2, 2011.
<http://www.visualthesaurus.com/cm/wc/3052/>
52. "How to save an endangered language." *Oxford University Press Blog*. Dec. 4, 2011.
<http://blog.oup.com/2011/12/endangered-language/>

53. "The top language stories of 2011." *Visual Thesaurus*. Dec. 20, 2011. <http://www.visualthesaurus.com/cm/wc/3072>
54. "Dictionary droids write definitions untouched by human hands." *Oxford Univ. Press Blog*. Jan. 24, 2012. <http://blog.oup.com/2012/01/dictionary-droids-write-definitions-untouched-by-human-hands/>
55. "The Writer's Meme." *Cultural Weekly*. Feb. 22, 2012. <http://www.culturalweekly.com/the-writers-meme.html>
56. "Alejandrina Cabrera should be on the San Luis City Council ballot." *Oxford Univ. Press Blog*. Feb. 28, 2012. <http://blog.oup.com/2012/02/alejandrina-cabrera-san-luis-city-council/>
57. "Learning not to curse in Arizona." *Cultural Weekly*. Mar. 15, 2012. <http://www.culturalweekly.com/learning-not-to-curse-in-arizona.html>
58. "The iPad: What's a Gutenberg moment, anyway?" *Visual Thesaurus*, March 7, 2010, <http://www.visualthesaurus.com/cm/wc/2240/>
59. "The iPad: What's a Gutenberg moment, anyway?" *Oxford University Press Blog*. March 8, 2010. <http://blog.oup.com/2010/04/ipad/>
60. "Yes, we want": Who owns global English? *Visual Thesaurus*, May 4, 2010, <http://www.visualthesaurus.com/cm/wc/2264/>
61. "The New Technologies of the Word." Rpt. in *The Arlington Reader* (New York: Bedford St. Martins, 2010).
62. "Don't read this: What Kindle's Highlights tell us about popular taste." *The Visual Thesaurus*. July 2, 2010. <http://www.visualthesaurus.com/cm/wc/2339/>
63. "Revising our freedom: Digital archeology and Jefferson's rough draft of the Declaration of Independence." *Oxford University Press blog*, July 9, 2010. <http://blog.oup.com/2010/07/revising-our-freedom/>
64. "Robot teachers!!! Coming soon, to a classroom near you!!!" *Oxford University Press blog*, July 13, 2010. <http://blog.oup.com/2010/07/robot-teachers>; repost, io9.com, July 28, 2010. <http://io9.com/5599084/robot-teachers-coming-soon-to-a-classroom-near-you>
65. "The gender-neutral pronoun: Still an epic(ene) fail." *Visual Thesaurus*. August 9, 2010. <http://www.visualthesaurus.com/cm/dictionary/2384/>; OUP blog, Aug. 26, 2101, <http://blog.oup.com/2010/08/gender-neutral-pronoun/>
66. "Technology update: Flying books can be dangerous." *Oxford University Press blog*, August 13, 2010. <http://blog.oup.com/2010/08/ebooks-3/>
67. "Is it 'Miss' or 'Ms'?" *Oxford University Press blog*. Aug. 16, 2010. <http://blog.oup.com/2010/08/miss-or-ms/>; rpt. as "What's in a Name? For 'Ms.," a Long History." on *Ms. Magazine blog*, Aug. 27, 2010, <http://msmagazine.com/blog/blog/2010/08/27/whats-in-a-name-for-ms-a-long-history/>
68. "Good grammar leads to violence at Starbucks?" *Visual Thesaurus*. August 17, 2010. <http://www.visualthesaurus.com/cm/wc/2394/>
69. "Good grammar leads to violence at Starbucks?" *Oxford University Press blog*. Aug. 20, 2010. <http://blog.oup.com/2010/08/starbucks/>
70. "Facebook says, 'All your face are belong to us.'" *Oxford University Press blog*, Aug. 31, 2010. <http://blog.oup.com/2010/08/facebook-trademark/>
71. "Facebook says, 'All your face are belong to us.'" *Visual Thesaurus*. Sept. 9, 2010. <http://www.visualthesaurus.com/cm/dictionary/2414/>
72. "The English Language Unity Act: Big government only a tea partier could love." *Oxford University Press blog*, Sept. 24, 2010. <http://blog.oup.com/2010/09/english-language-unity/>; rpt *Dallas Morning News*, Sept. 24, 2010. <http://topics.dallasnews.com/article/0gsfem7buy0AM>; rpt. NPR quotes, Sept. 24, 2010. <http://topics.npr.org/quote/0bqS3ST97z0yC>; rpt. Latest Law News, Sept. 24, 2010, <http://www.tollfree800legal.com/news/latest-law-news.cfm?Next-News-ID=3524647&start=51>;
73. "It's alive! New computer learns language like a human, almost." *Oxford University Press blog*. Oct. 11, 2010. <http://blog.oup.com/2010/10/computer-learns-language/> Picked up by NPR, the BBC, technorati, and techeye.
74. "Killer app: Seven dirty words you can't say on your iPhone." *Oxford University Press Blog*. Oct. 18, 2010. <http://blog.oup.com/2010/10/dirty-words/>

75. “Killer app: Will the iPhone monitor your language?” *The Visual Thesaurus*. Oct. 19, 2010. <http://www.visualthesaurus.com/cm/wc/2455/>
76. “A Literal Paradox.” *Visual Thesaurus*. Oct. 26, 2010. <http://www.visualthesaurus.com/cm/dictionary/2465/>
77. “A Literal Paradox: *literally* generally means ‘figuratively.’” *Oxford Univ. Press Blog*. Oct. 29, 2010. <http://blog.oup.com/2010/10/literal-paradox/>
78. “All hail Goddess English.” *Oxford University Press Blog*. Nov. 9, 2010. <http://blog.oup.com/2010/11/all-hail-goddess-english/>
79. “The tweet police are watching.” *The Visual Thesaurus*. Nov. 17, 2010. <http://www.visualthesaurus.com/cm/wc/2506/>
80. “☺ when you say that, pardner,” – the tweet police are watching.” *Oxford University Press Blog*. Nov. 22, 2010. <http://blog.oup.com/2010/11/tweet-police/>
81. “On the internet, nobody knows you can’t spell.” *Oxford University Press Blog*. Nov. 29, 2010. <http://blog.oup.com/2010/11/you-cant-spell/>
82. “The Noun Game: A simple grammar lesson leads to a clash of civilizations.” *Oxford Univ. Press blog*. Dec. 10, 2010. <http://blog.oup.com/2010/12/noun-game/>
83. “President has Americans running to the dictionary.” *Visual Thesaurus*. Dec. 13, 2011. <http://www.visualthesaurus.com/cm/dictionary/2531/>
84. “Books by the numbers.” *Visual Thesaurus*. Dec. 20, 2010. <http://www.visualthesaurus.com/cm/wc/2546/>
85. “Books by the numbers.” *Oxford Univ. Press Blog*. Jan. 6, 2011. <http://blog.oup.com/2011/01/books-by-the-numbers/>
86. “Defending the language with bullets.” *Oxford Univ. Press Blog*. Jan. 14, 2011. <http://blog.oup.com/2011/01/bullets/>
87. “The government does not control your grammar.” *Oxford Univ. Press Blog*. Jan. 28, 2011. <http://blog.oup.com/2011/01/grammar/>
88. “The Supreme Court Debates: What does ‘personal’ mean?” *Visual Thesaurus*. Jan. 24, 2011. <http://www.visualthesaurus.com/cm/dictionary/2582/>
89. “#twitterrevolution—reforming Egypt 140 characters at a time.” *Oxford Univ. Press Blog*. Feb. 17, 2011. <http://blog.oup.com/2011/02/twitter-revolution/>
90. “The government’s out-of-date definition of writing.” *Visual Thesaurus*. Feb. 18, 2011. <http://www.visualthesaurus.com/cm/dictionary/2628/>
91. “The government’s definition of writing is seriously out of date.” *Oxford Univ. Press Blog*. Feb. 28, 2011. <http://blog.oup.com/2011/02/dictionary-act/>
92. “Who cares about National Grammar Day? Or is it *whom*?” *Oxford Univ. Press Blog*. Mar. 4, 2011. <http://blog.oup.com/2011/03/grammar-day/>
93. “When news breaks, people look it up in the dictionary.” *Visual Thesaurus*. March 10, 2011. <http://www.visualthesaurus.com/cm/dictionary/2655/>
94. “It’s time for English teachers to stop teaching that the world is flat.” *Oxford Univ. Press Blog*. Mar. 18, 2011. <http://blog.oup.com/2011/03/english-teachers/>
95. “Happy birthday OK: the world’s most-popular word turns 172,” *Oxford Univ. Press Blog*. Mar. 23, 2011. <http://blog.oup.com/2011/03/ok-day/>
96. “OED Hearts OMG.” *Visual Thesaurus*. April 11, 2011. <http://www.visualthesaurus.com/cm/dictionary/2815/>
97. “TSA bans reading on international flights.” *Indyposted*, Jan. 4, 2010. <http://indyposted.com/8627/tsa-bans-reading-on-international-flights/>
98. “Say goodbye to the decade with no name.” *Visual Thesaurus*, Dec. 18, 2009. <http://www.visualthesaurus.com/cm/wc/2100/>
99. “English teachers council gives Glenn Beck the ‘Doublespeak Award’.” My statement was reprinted verbatim in a *Washington Post* article about the Doublespeak Award by Valerie Strauss, Nov. 23, 2009, <http://voices.washingtonpost.com/answer-sheet/accountability/ncte-award-glenn-beck-the-doub.html>
100. “The Noun Game.” *The Visual Thesaurus*. Nov. 16, 2009. <http://www.visualthesaurus.com/cm/wc/2067/>
101. “Technology reduces the value of old people, MIT computer guru warns.” *Oxford Univ. Press, OUPBlog*, Nov. 11, <http://blog.oup.com/2009/11/old-people/>

102. "Happy belated 40th birthday to the internet." Oxford Univ. Press, OUPBlog, Nov. 3, <http://blog.oup.com/2009/11/40th-birthday-internet/>
103. "Two thumbs up? Researchers predict that by 2013, we'll all be Tweeting." Oxford Univ. Press, OUPBlog, Oct. 27 http://blog.oup.com/2009/10/universal_authorship/
104. "Blogging for pay." Oxford Univ. Press, OUPBlog, Oct. 8, <http://blog.oup.com/2009/10/blogging-for-pay/>
105. "Amazon sales rank: I'm being outsold by a book on tattoos." Oxford Univ. Press, OUPBlog, Sept. 25, <http://blog.oup.com/2009/09/amazon-rank/>
106. "The Spellings Commission, the ACT, and the ETS Just Don't Read America's Literacy Right." *College Composition and Communication* 61.1 (Sept. 2009): W424-35.
107. "The Elements of Style at 50: If You Celebrate, Use the Active Voice." Visual Thesaurus, April 6, 2009, <http://www.visualthesaurus.com/cm/dictionary/1805>
108. "'Tis Talk Like Shakespeare Day in Chicago, Methinks." Visual Thesaurus, April 23, 2009. <http://www.visualthesaurus.com/cm/dictionary/1827/>
109. "Amazon Fail 2.0: Orwell Removed from Kindles." Visual Thesaurus, July 21, 2009. <http://www.visualthesaurus.com/cm/wc/1922/>
110. "Amazon Fail 2.0: Bookseller's Big Brother removes Orwell's Big Brother from Kindles everywhere." Oxford Univ. Press OUPblog. July 21, 2009. http://blog.oup.com/2009/07/amazon_fail2/
111. "Digital Text." Letters. *Wilson Quarterly* (winter, 2010), p. 6.
112. "Multitasking: Learning to teach and text at the same time." Oxford Univ. Press Blog, Jan. 25, 2010. <http://blog.oup.com/2010/01/teach-and-text/#more-7305>
113. "Will the iPad change your life?" Oxford Univ. Press Blog, Jan 28, 2010. <http://blog.oup.com/2010/01/will-the-ipad-change-your-life/>
114. "Sliced Bread 2.0." Oxford Univ. Press Blog, Feb. 24, 2010. <http://blog.oup.com/2010/02/sliced-bread-2-0/>
115. "Should everybody write? The destabilizing technologies of communication." Oxford Univ. Press Blog, Mar. 16, 2010. <http://blog.oup.com/2010/03/should-everybody-write/> a day later, there were 25 reposts of the essay.
116. "Should everybody write?" *Visual Thesaurus*. Mar. 16, 2010. <http://www.visualthesaurus.com/cm/wc/2204/>
117. "Multitasking: Learning to Teach and Text at the Same Time" *Quality Teacher* (a quarterly journal of Bato Balani Foundation, the Philippines; forthcoming).
118. "The book, the scroll, and the web." Oxford Univ. Press Blog, April 2, 2010. <http://blog.oup.com/2010/04/scroll-book/>
119. "March 10: The telephone is 133 years old today. Call me." *Visual Thesaurus*. March 10, 2009. <http://www.visualthesaurus.com/cm/dictionary/1768/>
120. "Lincoln the writer at 200." *The Visual Thesaurus*. Feb 13, 2009. <http://www.visualthesaurus.com/cm/wc/1722/>
121. "No Students Left Behind: Why Reports on the Literacy Crisis from the Spellings Commission, the ACT, and the ETS Just Don't Read America's Literacy Right." *College Composition and Communication* 61.1 (Sept. 2009): W424-35.
122. "Noah Webster at 250: A Visionary or a Crackpot?" *The Visual Thesaurus*. Oct. 16, 2008. <http://www.visualthesaurus.com/cm/dictionary/1576/>
123. "Can commas shoot down gun control?" *Los Angeles Times*, March 22, 2007. Rpt. *Oxford Magazine* no. 264 (Oxford Univ.), Spring (second week, Trinity term) 2007, pp. 12-13.; also rpt., *The Green Bag*, second series, vol. 10, no. 40 (Quarterly Law review of the George Mason School of Law), Summer 2007.
124. "Don't write off the pencil just yet." *Los Angeles Times*, Jan. 23, 2007, A15.
125. "No academic bill of rights?" *Inside Higher Education*, June 13, 2006. www.ihe.com.
126. "Churchill fallout: It's about academic freedom." *Inside Higher Education*, May 26, 2006. www.ihe.com.
127. "I'm not really a professor, I just play one on TV." *Inside Higher Education*, Oct. 14, 2005.
128. "The College Board's New Essay Reverses Decades of Progress Toward Literacy." *Chronicle of Higher Education*. May 6, 2005. Pp. B14-15; rpt. in *Newsletter of the Northeast Association of Pre-Law Advisors*, Fall 2005.

129. "The New Nativism: Language Policy and Linguistic Ideology in the United States." *Ryukyus Journal of American Studies* (April, 2005): 1-12.
130. "Not Searching for Skeletons." *Chronicle of Higher Education*, Jan. 14, 2005, C1;4.
131. "The Tongue Who Would Be King." *Science and Spirit*, November/December 2004, pp. 28-33.
132. "The President's Reading Lesson." *Education Week*, Sept. 8, 2004, p. 43.
133. "A Diverse Department." *Chronicle of Higher Education*, August 13, 2004, C2-3.
134. "Avoiding the Role of Straight Man." *Chronicle of Higher Education*, June 18, C1;4.
135. "Around the Clock." *Chronicle of Higher Education*, May 21, 2004, C1;4.
136. "It's Just Grammar. Whom Really Cares?" *Los Angeles Times*, May 7, 2004, B17; rpt., *Austin (Texas) American-Statesman*, *Adrian (Michigan) Daily Telegram*, May 12, 2004.
137. "What Am I Worth?" *Chronicle of Higher Education*. April 23, 2004, C1;4.
138. "Lessons in Department Budgeting." *Chronicle of Higher Education*. March 26, 2004, C2-3.
139. "Language and society." For PBS Documentary, "Do you speak American?" www.pbs.org/speak/words/sezwho/socialsetting. [Rpt. in *Inightful Writing*, ed. David Sabrio and Mitchel Burchfield. Boston: Houghton, Mifflin, 2008.
140. "No Translation Needed: 'Door Is Closed.'" *Los Angeles Times*, March 14, 2004, M5 [rpt. *Atlanta Journal-Constitution*, *Kansas City Star*; *Myrtle Beach (South Carolina) Sun-News*; Bryan-College Station (TX) *Eagle*; translated into Finnish for *Helsingin Sanomat* (Helsinki, Finland), March 28, 2004].
141. "New Programs, New Problems." *Chronicle of Higher Education*. Feb. 27, 2004. C1;4.
142. "Intervening in the Classroom." *Chronicle of Higher Education*. Jan. 30, 2004, C1;4.
143. "Sharing Inside Information." *Chronicle of Higher Education*. Dec. 19, 2003, C1; 4.
144. "McLanguage Meets the Dictionary." *Chronicle of Higher Education*. Dec. 19, 2003, B14.
145. "Not What I Signed Up For." *Chronicle of Higher Education*, Nov. 21, 2003, C1; C4.
146. "Professors Behaving Badly." *Chronicle of Higher Education*, October 24, 2003, C3-4.
147. "Learning to Be a Department Head." *Chronicle of Higher Education*, Sept. 22, 2003, C5.
148. "Life After Tenure." *Chronicle of Higher Education*, July 21, 2003.
149. "When Tenure Fails." *Chronicle of Higher Education*, June 10, 2003.
150. "Teaching Grammar Doesn't Lead to Better Writing." *Chronicle of Higher Education*, May 16, 2003, B20.
151. "Promoting Late Bloomers." *Chronicle of Higher Education*, April 25, 2003.
152. "The Tenure Files: Getting Through the College." *Chronicle of Higher Education*, Feb. 14, 2003.
153. "External Reviewers." *Chronicle of Higher Education*, January 7, 2003.
154. "A Look at the Record." *Chronicle of Higher Education*, Nov. 7, 2002.
155. "I Teach English—and I Hate Reader's Guides." *Chronicle of Higher Education*, Oct. 4, 2002, p. B5.
156. "Good Grammar and the Career Network." *Chronicle of Higher Education*, July 31, 2002.
157. "Language Use and Grammar." The September, 2002, module for "Teaching Composition," a listserv for the composition teaching community, published by McGraw-Hill. <http://www.mhhe.com/socscience/english/tc>.
158. "Getting Promoted." *Chronicle of Higher Education*, Sept. 5, 2002.
159. "The Job Search: You're the One." *Chronicle of Higher Education*, April 12, 2002.
160. "The Campus Visit." *Chronicle of Higher Education*, Feb. 24, 2002.
161. "Will Anyone Accept the Good News on Literacy?" *Chronicle of Higher Education*, Feb. 1, 2002, B10.
162. "The Job Interview." *Chronicle of Higher Education*, Jan. 21, 2002.
163. "To Whom It May Concern: Reading Job Applications." *Chronicle of Higher Education*, Dec, 21, 2001.
164. "The Hiring Season." *Chronicle of Higher Education*, Nov. 9, 2001.
165. "America Doesn't Know What the World Is Saying." Op-Ed essay, *The New York Times*, Oct. 27, 2001, A21. Rpt. *Cleveland Plain Dealer*, Oct. 30, 2001, B11.
166. "The End of Linguistics: a response" letter to the editor, *The American Scholar* (Spring, 2001): 155-56.
167. "The Official Secrets Act in Academic Publishing." *Chronicle of Higher Education*, Feb. 16, 2001, B5.

168. "Literacy and technology." In Linda K. Shamon, R. M. Howard, S. Jamieson, and R. A. Schwegler, eds., *Coming of Age: The Advanced Writing Curriculum*. Portsmouth, NH: Heinemann, Boynton/Cook, 2000 and on CD-rom. Approx. 8 pp.
169. "Ebonics and the Politics of English." *World Englishes* 19 (March, 2000): 5-19.
170. "Technology's Impact on Writing." Letter. *Chronicle of Higher Education*, Jan. 21, 2000, B11.
171. "To Sir, or Ma'am, with Love." *Education Week*. Sept. 8, 1999, 45.

The Web of Language: a blog running from 2007 to the present dealing with issues of language and technology: <http://bit.ly/1B29f6v> Over 1.5 million page views..

Recent Invited Lectures, Workshops and Conference Presentations:

1. "Corpus Linguistics and the Original Meaning of the Second Amendment." University of Chicago Law School, 12 January, 2021.
2. Author interviews, "What's Your Pronoun?" New York Public Library, 4 February, 2020; Politics and Prose Books (Washington, DC), 5 February; Cuyahoga County Public Library. 6 February; Kansas City Public Library (MO), 11 February; Town Hall Seattle, 16 February; Powells Books, Portland OR, 17 February; City Lights Books, San Francisco, 18 February.
3. "Guns and Grammar: Big Data and the Meaning of 'bear arms' in the Second Amendment." Conference on Law and Corpus Linguistics, Brigham Young Univ. Law School, Feb. 6-8, 2019.
4. "Corpus evidence and the meaning of 'bear arms.'" Symposium: *District of Columbia v. Heller* 10 years on, Hastings College of Law, San Francisco, CA, Jan. 18, 2019.
5. "What's Your Pronoun?" Language Policy Forum, Sheffield Hallam University, UK, June 1, 2018.
6. "America's War on Language," Invited Lecture, University of Pennsylvania, April 19, 2018.
7. "Guns and Grammar: The Linguistics of the Second Amendment," Neubauer Symposium on Historical Semantics, University of Chicago, April 13, 2018.
8. "Speak the Language of Your Flag: Language and Immigration in the US, 1918-2018," Language and Borders Conference, University of Bristol, UK, March 26, 2018.
9. "Pronoun Showdown," Invited lecture, University of Essex, UK, Nov. 23, 2017.
10. "Going native: Brexit prompts linguistic cleansing." Conference on UK Language Policy after Brexit. Sheffield Hallam University (Sheffield, UK), Sept. 15, 2016.
11. "Pronoun Showdown: Are nonbinary pronouns and singular *they* ruining the language or making English great again?" Univ. of Tennessee (Knoxville), April 11, 2016.
12. "Speak the language of your flag." Present-Day English Discussion Group, Modern Language Association. Jan. 9, 2014.
13. "#twitterrevolution: Destabilizing the world, 140 characters at a time." Univ. of Sussex (Brighton, UK). March 21, 2013.
14. "Speak the language of your flag." In "creative" conversation, with Michael Erard. *Modern Language Association*. Boston, Jan. 3, 2013. Speakers invited by MLA Executive Director Rosemary Feal.
15. "Official English from the school house to the White House." Englishes in Europe Conference. Univ. of Sheffield. April, 2012.
16. "#twitterrevolution: Destabilizing the world, 140 characters at a time." Temple Contemporary, Temple University Art Museum. Oct. 11, 2012.
17. "Guns and grammar: Linguistic authority and legal interpretation in *Washington, D.C., v. Heller*" Stanford University. Nov. 10, 2011.
18. "Should everybody write? The destabilizing technologies of communication." Univ. of Chicago Semiotics Workshop, March 11, 2010.
19. "Guns and grammar: The linguistics of the Second Amendment." Law and Society Annual Conference, Denver, CO, June 30, 2009.
20. "Let's go to the phones." Univ. of Michigan invited lecture. Dec. 5, 2008.
21. "Policing English in America from the White House to the schoolhouse." Conference on prescriptivism in language. Univ. of Paris VII (Sorbonne), Paris, FR. Nov. 15, 2007.

22. "It's All Your Fault: Who's Really to Blame for the Literacy Crisis?" Conference on College Composition and Communication. New York City, March 2007.
23. "No University Student Left Behind: Writing and the Secretary of Education's Commission on Higher Education." Conference on College Composition and Communication. Chicago, March 2006.
24. "The Perils of the new SAT Writing Test." Conference on College Composition and Communication. San Francisco. March 17, 2005.
25. "Spanish, English and the New Nativism." Modern Language Association. Philadelphia. Dec. 30, 2004.
26. "Reading and Writing in the Digital Age." Invited presentation. Illinois Library Association, Chicago, September 30, 2004.
27. "Language Policies and Language Politics in the United States." "English and Minority Languages in the 2000 Census." Invited lectures, Univ. of Ryukyu, Okinawa, Japan, June, 2004.
28. "TeknoFear." Invited lecture, Northeastern Illinois University, April 15, 2004.
29. "Standards: They're Not for Everybody." Conference on College Composition and Communication. San Antonio, TX, March 25, 2004.
30. "The New Technologies of the Word." Plenary lecture. International Association of World Englishes Conference, Univ. of Illinois, October 17, 2002.
31. "Writing Effective Promotion Dossiers," Provost's Seminar, Univ. of Illinois, Sept. 7, 2001.
32. "Promotion and Tenure," a workshop for new executive officers, Association of Departments of English seminar, Monterey, California, June 29, 2001.
33. "From Pencils to Pixels: The New Technologies of Literacy." Invited lecture, UC Davis, March 2, 2001.
34. "The Illinois Professional Learning Partnership." Conference on College Composition and Communication, Denver, CO, March 15, 2001.
35. "Writing Effective Third-Year Faculty Reviews," Provost's Seminar, Univ. of Illinois, Feb. 26, 2001.
36. "Outreach for the Humanities," response to Graham Spanier; Chancellor's Conference, Univ. of Illinois, Jan. 31, 2001.
37. "Other Teachers' Students." Conference on College Composition and Communication, Minneapolis, MN, April 15, 2000.

Recent Media Interviews

1. Interviews for *What's Your Pronoun?* 2020-21: CBS Radio (NYC); NPR Weekend All Things Considered; CAP Radio (Sacramento, CA); Wisconsin Public Radio; KPBS San Diego; KWGS, Tulsa, OK; Slate: The Gist; KERA Radio; KATU TV, Portland, OR; KQED, San Francisco Public Radio; KPCC, Los Angeles; Talk the Talk (podcast); The Vocal Fries (podcast); That Word Chat (podcast).
2. "Tapestry," CBC-Radio "The Longing for Belonging," interview on pronouns, June 28, 2018.
3. "Air Talk," Larry Mantle, KPCC-NPR Los Angeles, Pronouns, Mar. 6, 2018.
4. "Do Official English laws work?" interview, KCBS, San Francisco. Aug. 24, 2017.
5. "Latinos in America." PBS documentary, aired October, 2013.
6. Various radio appearances on WILL-AM discussing language issues 1984-present.
7. "Extension 720" with Milt Rosenberg. WGN radio, Oct. 16, 2009. 2-hour interview about *A Better Pencil*.
8. Steve Fast, "The Classroom Connection" Oklahoma Public Radio, interview about *A Better Pencil*. Oct. 1, 2009.
9. Valerie Richardson Show. WPKN, Bridgeport CT, April 21, 2009. Half-hour interview about my work on usage and on technology.
10. Jim Brown, "The Current." CBC-Radio, Canada. July 15, 2008. Interview on Esperanto.
11. "The Peter Laufer Show", Green Radio 960 (San Francisco). 60 min. interview on Broadcast English, Dec. 28, 2008.

12. "Official English in Small Town America," *Eight Forty-Eight*, WBEZ-FM (Chicago public radio), June 13, 2007. Lead interview for the show, also featured on the WBEZ web site: http://www.wbez.org/Program_848_Segment.aspx?segmentID=11395
13. "The English Language." Focus 580, WILL-AM, multiple appearances each year from 1982-present.
14. "Good English." The Robin and Maynard Show. KQBZ-FM (Seattle), May 3, 2005.
15. "Pronunciation in American English." Interview by Avi Arditti and Roseann Skirble broadcast on "Coast to Coast" by Voice of America (4/24/03); posted on voanews.com/wordmaster.
16. "The English Language," The Joan Rivers Show, WOR-AM, New York, June 25, 2001.
17. "The *New Oxford Dictionary of English*," "Sandy Rios Live," WYLL-FM, Chicago, Aug. 14, 1998.

Editorships and Commissions:

Chair, Committee on Public Policy, Conference on College Composition and Communication, National Council of Teachers of English, 2003-06.
 Member, Board of Advisors for the television series "Do You Speak American?" with Robert MacNeil.
 Member, *PMLA* Advisory Committee, 1998-2001.
 Member, editorial advisory board, *Liverpool Studies in Language and Discourse*, 1993-present.
 Member, MLA Delegate Assembly, 1998-2003.
 Chair, MLA Division on Language and Society, 2001-02.
 Member, Commission on Language, National Council of Teachers of English, 1984-87; 1999-2002.
 Editor, *Publication of the American Dialect Society* (monograph series) 1984-93.
 Member, Committee on Language and the Schools, Linguistic Society of America, 1992-1997.
 Associate Editor, *Publication of the American Dialect Society*, 1982-84.

Memberships in Professional Organizations:

American Dialect Society (life member; member, Committee on New Words, 1975-82; member, Committee on Usage, 1982-present; member, Centennial Publications Committee; Centennial Publicity Committee; Centennial Documentaries Committee).
 Modern Language Association (member, Delegate Assembly, 1996-99).
 National Council of Teachers of English (member, Commission on the English Language, two terms). Chair, Committee on Public Language, 2009-12.
 Conference on College Composition and Communication.
 Conference of Editors of Learned Journals, 1985-93.
 Linguistic Society of America; member, Committee on Language in the Schools, 1992-94.
 Illinois Association of Teachers of English (member, program committee, 1987-88).

Biographical Notices:

Who's Who in America
Directory of American Scholars
Contemporary Authors
Who's Where Among Writers
International Authors and Writers Who's Who
International Linguistic Directory
Who's Who in American Education

Who's Who in the World
Who's Who in the Humanities

Consulting:

Legal consulting and expert witness reports and testimony for a variety of law firms and for the State of California Attorney General..

Media consulting for television, radio, and newspapers, including ABC's Nightline, Champaign-Urbana News-Gazette, The Chicago Tribune, Cincinnati Enquirer, Los Angeles Times, The McNeil-Lehrer Report, The New York Times, Newsweek, Orlando Sentinel, Prentice-Hall, Scripps-Howard Newspapers, Scott-Foresman, Inc., Springfield (IL) Register, USA Today, U.S. News and World Report, WICD-TV (Champaign, IL), William Safire.

Professional consulting for numerous academic and university presses.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai'i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

DECLARATION OF RYAN BUSSE

DECLARATION OF RYAN BUSSE

I, Ryan Busse, declare under penalty of perjury that the following is true and correct:

1. I am a former senior executive in the firearms industry and the author of *Gunfight: My Battle Against the Industry that Radicalized America* (New York: PublicAffairs, 2021).

2. This declaration is based on my personal knowledge and experience, and if I am called to testify as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

EXHIBIT "2"

BACKGROUND AND QUALIFICATIONS

3. I was raised with firearms as an integral part of my life. I began shooting with various guns as a young boy and continued to regularly use and study guns throughout my life (I am now 52). After graduating college, I entered the firearms industry in 1992. I became a sales executive in the firearms industry in 1995, and I spent more than 25 years in this role. While in the industry, I developed innovative sales teams, maintained relationships with the largest national retailers, and was responsible for worldwide sales of millions of firearms. I built a dealer-direct sales network that included more than 2500 firearms dealers including locations in all 50 states, and I regularly visited these dealers. In my job, I also studied and built sales programs that relied on understanding the technical nature of most firearms available in the U.S. market, including AR platform guns and other types of rifles and pistols. During my career, I played an integral role in building one of the largest firearms companies in the United States, Kimber, and I was nominated by shooting industry leadership many times for the SHOT Business “Shooting Industry Person of the Year” Award. I served in an executive sales capacity as Vice President of Sales until August 2020. While in the industry I served as an advisor to the United States Senate Sportsmen’s Caucus, and as the North American board chairman for Backcountry Hunters & Anglers, a national wildlife conservation and hunting organization.

4. A copy of my curriculum vitae is attached to this declaration as

Exhibit A.

5. I left the firearms industry because I was concerned about what I believed to be irresponsible and dangerous marketing and sales practices. Since I left, I have served as an advisor to the 2020 Biden presidential campaign, I have testified twice before the U.S. Congress about the firearms industry and gun policy (before the House Committee on Oversight and Reform and the Joint Economic Committee, respectively), I have been called to testify in closed-door briefings at the U.S. Senate, and I currently serve as a Senior Advisor to Giffords. I remain a proud and active gun owner, outdoorsman, and advocate for responsible gun ownership.

6. I have provided expert witness testimony in *Miller v. Bonta*, No. 3:19-cv-01536-BEN-JLB (S.D. Cal.); *Duncan v. Bonta*, No. 3:17-cv-1017-BEN-JLB (S.D. Cal.); *Oregon Firearms Federation Inc. v. State of Oregon*, No. 2:22-cv-01815-IM (D. Or.); *Brumback v. Ferguson*, No. 1:22-cv-03093-MKD (E.D. Wash.); and *National Association for Gun Rights v. City of Highland Park, Illinois*, No. 1:22-cv-04774 (N.D. Ill.).

7. I have been retained by the Department of the Attorney General, State of Hawaii to provide expert testimony in litigation challenging Hawaii's assault pistol and large capacity magazine regulations. I am being compensated at a rate

of \$350 per hour for my work on this declaration, as well as for any travel or testimony connected with this matter, and at \$150 per hour for any consultation work.

OPINIONS

8. I have reviewed the pertinent Hawaii law which regulates the sale of assault pistols and large capacity magazines, and I am familiar with the features and function of both.

9. With regards to opinions I offer below pertaining to the features and characteristics of assault weapons, I focus on features addressed in the Hawaii law that are also generally found on most such weapons regardless of platform. I pay particular attention to AR-15 platform firearms because firearms based on this particular platform are now by far the most prevalent assault pistols and assault rifles in the United States and are therefore particularly illustrative of the issues in this case.

10. Semiautomatic pistols, rifles and shotguns, including AR and AK-platform pistols and rifles, are capable of firing one shot per each pull of the trigger. Centerfire firearms are chambered with centerfire ammunition, which has the primer (the component that ignites the propellant) located in the center of the base of the cartridge case (as opposed to the rim of the cartridge). Today's modern rimfire ammunition is almost always confined to small and less powerful

cartridges, such as the .22LR. Bullets fired from these cartridges are small and light and move much slower than almost all centerfire rifle ammunition. Rimfire chamberings are common in youth and “beginner” hunting rifles because they are relatively quiet and inexpensive and have low recoil. Conversely, modern centerfire ammunition requires a detonation of a primer in the center of the cartridge (CENTERfire) and these cartridges are generally much more powerful than rimfire cartridges. As an example, the .223, which is the most common AR-15 cartridge, fires bullets at more than 3000 feet/second, whereas a rimfire cartridge typically propels bullets at around 1100 feet/second. This increased centerfire velocity greatly increases the range and lethality of centerfire cartridges. Most handgun cartridges are also now centerfire, and these cartridges generally fire bullets much larger than rimfire cartridges, usually at velocities of between 800 and 1500 feet/second. Generally, centerfire weapons fire higher-caliber ammunition and/or fire it at higher velocities.

11. While there are many assault pistol variants, AR-15 pistols are now the most commonly sold assault pistol in the United States, and are near direct copies of AR-15 rifles with two notable exceptions; First, these guns incorporate a barrel shorter than 16 inches which means the gun in rifle form would be deemed illegal under the 1934 NFA which regulates “SBRs” or “Short Barreled Rifles.” Second, they have no rear stock (the portion of a rifle used to stabilize the firearms

against a shoulder while firing). The absence of a stock is purposeful because this is the feature that designates the gun as a rifle. Generally speaking most all AR-15 pistols now manufactured and sold incorporate a system on the rear of the gun to allow easy attachment of what in effect becomes a “stock replacement.” Even though there is now a concerted gun industry effort to publicly label these guns as “pistols” in order to imply compliance with the federal regulation, inside the industry, these guns are considered to be “shortened AR-15s” because they are shortened AR-15 rifles.

12. These guns are now generally sold and marketed as a smaller, more portable and more versatile version of the AR-15. Notable gun industry website Guns.com enumerates the advantages of AR-15 pistols like this: “The AR pistol has the advantage of being more concealable and maneuverable in tight spaces. That, coupled with a large round capacity, make it a great choice in close-quarter encounters.”¹ Once the pistols are outfitted with braces or other similar accessories, they can be fired as a pistol, as a “braced” pistol (the attachment clamps to or braces against the forearm of the shooter to “stabilize” the gun) or can be deployed in near-identical fashions to rifles.

¹ Review of AR-15s: <https://www.guns.com/news/reviews/ar-pistol-vs-ar-rifle-what-should-you-pick> (last visited Feb 9, 2023)

13. This is a photo of a non-braced AR-15 pistol being shot without a brace but with the aid of a “sling.”



This is a photo of an AR-15 pistol equipped with an arm brace:



This is a photograph instructing shooters how to shoot an AR-15 **pistol**. The AR-15 pistol in the photo is also equipped with an angled forward grip (Angled grips

legal, vertical grips are deemed illegal by NFA regulations). This is from a notable industry training site, The Firearms Training Blog:²



This is a photo from a notable industry site, Wing Tactical. The photo is meant to instruct shooters how to shoot an AR-15 **rifle** equipped with vertical forward grip (similar to the angled grip on the AR-15 pistol in the preceding photo). Note that the shooter, stance, aiming and grip are nearly identical to the AR-15 pistol above³:

² Photo from Firearms Training Blog:
<https://mckinneyfirearmstraining.com/wordpress/ar-15-pistol/> (Last viewed Feb 1, 2023)

³ Wing Tactical instruction on how to fire AR-15 rifle with forward grip.
<https://www.wingtactical.com/blog/how-to-properly-use-a-fore-grip/> (last viewed Feb 1, 2023)



14. The AR-platform, in particular, is the civilian version of the military's select-fire M-16 and M-4 rifles, which are capable of fully automatic or burst firing. Based on my familiarity with the firearms industry, AR-platform rifles and similar semiautomatic rifles did not begin to sell in significant numbers until the late 2000s and particularly after the 2012 shooting at Sandy Hook Elementary in Newtown, Connecticut.

15. Because of years of self-imposed gun industry resistance to marketing these guns, related years of lingering industry doubts as to the legality of AR-15 pistols equipped with braces or similar accessories with regards to the NFA regulations, and because assault pistols are relatively difficult to fire accurately without a stock or stabilizing device, the pistol version of the AR-15 has been much slower to gain industry acceptance and popularity. It is my experience that these guns have only been openly discussed, marketed and sold by reputable companies in any meaningful volume since about 2016, with the majority of sales happening in the last 2-3 years (2020-2023).

16. Less than a decade ago most companies did not market AR-15 pistols. Most companies that market AR-15 pistols today introduced them very recently. A notable example is Smith and Wesson that introduced their Military and Police AR-15 pistol in Dec, of 2020.⁴

17. The AR-platform is highly modular, enabling owners to customize their rifles with a variety of interchangeable components. Some components of a firearm, such as a trigger mechanism or barrel, are integral to its operation, and the firearm will not function properly without them. But the particular components which qualify a weapon as an assault pistol under Hawaii law if it is equipped with them, are not integral to the basic operation of any firearm and are not necessary to use a firearm effectively for self-defense or sporting purposes, such as hunting. I address some of these features in the following points.

A. Features of assault weapons which apply to both assault rifles and assault pistols

18. **Pistol grip.** Pistol grips beneath the action of a rifle or shotgun are not necessary to operate those weapons as designed. For AR-15 pistols, this feature is a more integral part of the gun until the stock or brace is attached, after which the gun becomes nearly identical to an AR-15 rifle. In my experience, most

⁴ Introductory review of Smith and Wesson AR-15 pistol from Dec of 2020. <https://www.thefirearmblog.com/blog/2020/12/10/smith-wesson-introduces-new-mp15-pistol/> (last viewed Feb 1, 2023)

AR-15s pistols are equipped by their owner with a brace or similar “stock.” A pistol grip is a feature incorporated into some firearm stocks or as a piece separate from the stock, that allows the shooter to control and aim the weapon during periods of rapid fire. For many decades, non-pistol grip stock designs have been standard on firearms such as Remington 870 shotguns, which are widely accepted to be among the most effective home defense guns ever built and which have been leading sellers in the firearms market. Even on AR-15s and similar rifles, stocks that do not incorporate this feature are currently sold in states such as California, and prominent, widely referenced firearms authorities on these topics, such as www.caligunner.com, assess those options and the function of these “compliant” (non-pistol grip) rifles in this manner: “Everyone has a preference on what looks the ‘best’ but the top picks below are *all great functioning options.*”⁵ As also noted on that website, while “[s]ome people that are critical of the featureless option complain of the aesthetics of the available options,” “the overall function of the rifle is mostly maintained,” and “several companies continue to innovate and provide new products that look decent and perform well considering the constraints of the law.” While a pistol grip beneath the action of an AR-15 may be useful during military operations because it helps the shooter stabilize the weapon and

⁵ <https://caligunner.com/california-compliant-featureless-rifle/> (last visited Dec. 30, 2022).

reduce muzzle rise during rapid fire, a pistol grip is not necessary to operate a firearm safely in lawful self-defense situations.

19. Forward Grip, Foregrip, Protruding Grip, or Second Handgrip.

Held by the non-trigger hand, this feature is designed to aid in firearm stabilization during the rapid firing of assault rifles and assault pistols. The feature first gained prominence inside special operations military units where “cluttering” from accessories and extreme heat generated from the rapid firing of rifles were problems for troops in wartime situations. This feature is also found on some assault pistols, which are generally shortened versions of assault rifles and are therefore more difficult to stabilize during rapid fire. This feature allows the shooter of these pistols to better control the muzzle during firing. These grips can also aid in rifle stabilization during magazine changes thereby reducing time to reload for some shooters. A concise description of the feature’s first official origin on assault rifles is found in this firearms industry review from Lucky Gunner: “One of the items issued in this kit was a Knight’s Armament vertical forward grip, and it was included in order to deal with the problem of the forward rails becoming too cluttered to hold correctly when the other accessories were mounted. It also retained the benefits of recoil control and heat mitigation that made it a popular feature on submachine guns.”⁶ As this article details, forward grips were

⁶ <https://www.luckygunner.com/lounge/how-to-hold-an-ar15-foregrip/> (last visited

developed as a feature for troops charged with fast and efficient killing of enemy combatants in offensive warfare, but in my opinion they are not a necessary feature for self-defense.

20. **Flash Suppressors.** Flash suppressors are devices that are attached to the muzzle of a firearm to reduce or redirect the flash when shooting. This feature is affixed to military rifles to redirect the light (muzzle flash) generated from the burning of gasses while firing which reduces the prevalence of “night blindness” that can develop during low-light firefights. A flash suppressor also disguises the origin of fire and avoids detection by enemy forces but has marginal benefit in civilian self-defense situations, even in low-light conditions. As evidence for the lack of self-defense necessity for this feature, it is widely accepted that the most effective self-defense guns are handguns and home-defense shotguns. These firearms also produce muzzle rise and muzzle flash just like an AR-15 (or other assault rifles) and yet none require a “flash suppressor” to operate effectively in self-defense situations, and I am not aware of any industry authority or advertisement that has ever claimed that such a firearm will not function as designed without such a device. Generally speaking, a “flash” emanates from almost all firearms when fired and if the guns are properly designed for self defense, the cartridge size will be properly paired to the barrel which means

Jan. 10, 2023).

muzzle flash will not be exceptional compared to other firearms that are accepted as the best self defense guns.

21. **Barrel Shroud.** A shroud or handguard is a feature of assault weapons designed to shield the non-trigger hand of the shooter from barrel heat generated during rapid fire. Shrouds generally encircle the barrel beginning at the receiver and then extending down the barrel. The “forend” of a common hunting or target long gun stock is similar in that it is designed for the non-trigger hand of the shooter but on non-military guns the forend generally only “cups” or shields the bottom half of a barrel and does not generally envelop or encircle the entire barrel. These stock forends on target and sporting guns are not referred to as a shroud. In recent years, barrel shrouds on many assault weapons and especially AR-15 derivatives, have evolved to incorporate highly technical attachments systems which allow the shooter to attach various accessories meant to increase the performance and lethality of the weapons. Examples include lights, optical sights and laser aiming devices. In my opinion, shrouds are useful in military operations, especially in offensive battles involving high rates of fire, but they are not a necessary component for self-defense firearms.

22. **Threaded Barrels:** Threaded barrels are firearm barrels that are sometimes slightly lengthened (on most handguns) and modified or “threaded” on the end to accept “suppressors” (on both handguns and rifles). The term

“suppressor” is often used interchangeably with “silencer.” While there is no device that completely silences a gunshot, suppressors are designed to greatly reduce the sound of a gunshot, and modern suppressors are very effective, but not necessary for any gun to function in a self-defense situation.

23. Pistol Braces, Arm Braces, Stabilizing Braces, and Buffer Tubes:

In recent years because of the greatly increased focus on and sales of “AR-15 pistols” these aftermarket parts have gained quick prominence. As discussed earlier, the lack of a stock on these guns is generally a result of firearms manufacturers attempting to comply with the 1934 National Firearms Act (NFA), which regulated short-barreled rifles in response to the organized crime gang murders of the 1930s, many of which were centered in the Chicago, IL area. Those crimes often involved short-barreled firearms such as the Thompson submachine gun. Modern NFA-compliant rifles must not have barrels shorter than 16 inches (SBR or Short Barreled Rifle is the term for rifles that do not comply with the minimum 16-inch NFA requirement). But almost all pistols have barrels shorter than 16 inches, and so many companies produce and sell “AR-15 pistols” which generally appear to be an SBR but without a stock attached and that creates a market for these parts. Firing of these firearms without some sort of “stock” or “stabilizing device” or “pistol brace” is difficult and inaccurate, and hence many manufacturers have developed various forms of stock replacements or stabilizing

braces which in general function as a form of easily-attached stock for the AR-15 pistols. The attachment of these devices to the AR-15 pistols converts the gun into what is potentially a violation of the NFA regulations discussed above. Arm braces function similarly but brace against the forearm instead of shoulder. A buffer tube is a device that extends behind a semi auto receiver to which a stock attachment is often affixed. AR-15 style pistols with pistol brace devices were used in the recent Boulder, CO and Dayton, OH mass shootings.⁷

B. Magazines and Capacity

24. **Detachable Magazines, Large Capacity Magazines, Large Capacity Ammunition Feeding Devices.** Magazines are containers which hold ammunition in spring-loaded preparation for feeding into the receiver of a firearm. Clips, while sometimes confused with magazines, are different and can generally be described as small holding devices that retain cartridges in preparation for faster loading into magazines. Magazines can either be “fixed,” meaning they are integral within the gun, or “detachable,” meaning they are not internally or permanently attached to the firearm. Many firearms, including some of the most revered self-defense firearms ever built, incorporate fixed magazines which means that these containers are permanently affixed to, or inside the firearm. Examples

⁷ Article regarding regulation of the pistol brace devices used in Boulder and Dayton: <https://www.cnn.com/2023/01/13/politics/doj-rule-pistol-stabilizing-braces/index.html> (Last viewed Jan 31, 2023)

include most pump and semiautomatic shotguns where a tubular magazine is affixed under the barrel. Magazines of this sort can be temporarily or permanently “plugged” or shortened to regulate capacity. Many rimfire rifles, including many semiautomatic designs, incorporate the same general fixed tubular magazine design. Most lever action rifles use the same sort of tubular magazine. Many bolt-action hunting rifles utilize a fixed “box magazine” design in which ammunition must be loaded into the permanent “box” below the bolt, and then fed into the receiver from that magazine with each cycle of the bolt.

25. For “fixed magazine” firearms, in order to reload, the shooter must stop shooting and reload the magazine one cartridge at a time before resuming shooting. Conversely, detachable magazines enable a shooter to replace an empty or depleted magazine with a fresh magazine to resume firing in a manner that is much faster than stopping to reload fixed magazines. Unlike fixed magazines, detachable magazines can be preloaded and transported at the ready with the gun, effectively greatly increasing the potential number of rounds fired in any given period of time. For example, a competent shooter with a common fixed-magazine bolt-action rifle may be able to accurately fire 15-20 rounds per minute with long pauses to reload whereas a competent shooter with an AR-15 (either rifle or pistol) and preloaded large capacity magazines can accurately fire more than 100 rounds per minute with very short pauses to change magazines.

26. Detachable magazines may hold as many as 100 or more ammunition rounds but will also function with a single round. It is my experience that magazines which limit capacity to as few as 5 rounds are commonly available and are often legally mandated for hunting in many states. For AR-15s, these magazines function identically in either rifle or pistol versions. It is my experience that even if large capacity magazines are available or sold with firearms today, all firearms companies offer lower capacity options (often 10 round versions to comply with laws in various states).

27. Despite the recent proliferation of large capacity magazines, it is important to note that there is no known firearm that requires a large capacity magazine to function as designed. By this I mean that all firearms that can accept a large capacity magazine can also accept a magazine that holds fewer rounds and still function precisely as intended. This is true even of AR- and AK-platform rifles. Although many of these rifles are sold with a 30 round magazine, the manufacturers all offer the optional purchase of 10 round or even lower capacity magazines and could easily offer magazines limited to almost any given round count. There are many pistols (such as the very popular Model 1911—which was the accepted defensive sidearm of the U.S. Military for decades and is still one of the most widely owned self-defense guns in the United States) that are built for magazines of eight rounds or less. Other widely popular guns such as the Sig P938

are also designed to function with seven or eight round magazines and these guns have been widely acclaimed by dozens of notable firearms industry experts as among the most effective concealed carry/self-defense firearms on the market.⁸ While larger 10-plus round magazines exist for these pistols, a smaller magazine (standard seven or eight round) is considered preferable by almost all consumers because the physical size/profile of the shorter magazine is easier to carry, shoot and conceal.

28. Still today, guns such as the 1911 and Sig938 are built to function with sub-10 round magazines. With regards to the 1911 design, it is so respected that direct copies are currently reproduced by many gun companies (Smith & Wesson, Ruger, Kimber, Springfield, Rock Island, Dan Wesson, and many other companies build and sell these 1911 pistols) and they are sold in high volumes by most retailers in the United States. These guns are still considered extremely effective self-defense firearms by many of the leading firearms trainers in the country and are widely labeled as an “expert’s gun.” For AR-15s and handguns, even where magazines with capacities of more than 10 rounds are prevalent, the industry always offers 10-round or “compliant” magazines as an option. I am not aware of a single case where those magazines have been advertised as inadequate

⁸ USA Carry review of Sig 938 9mm handgun: <https://www.usacarry.com/sig-sauer-p938-subcompact-9mm-review/> (last visited Jan. 10, 2023).

or ineffective, and I am not aware of any other expert or industry advertisement that claims these magazines render a gun defective or unable to function in self-defense situations.

29. **Self-defense and magazine capacity.** Guns such as the Sig 365 which has standard magazine capacity of 10, and the 1911 pistols mentioned above are considered top self-defense choices. Additionally, revolvers have always been considered a top choice for self-defense given their reliability. Revolvers almost always have a 5 or 6 round capacity. Self-defense shotguns function as designed with magazines of 5 or fewer rounds. There are many highly regarded self-defense firearms that are “standard” without high capacity magazines and all semiautomatic guns will function as designed without a high capacity magazine.

30. **Magazines as accessories.** Because a large capacity magazine is not a required component for a firearm to operate, it is characterized as an accessory by the industry. There is a massive market for magazines that far surpasses that of the market for firearms themselves in terms of numeric sales. There are companies, such as Magpul, that entirely specialize in firearms accessories, including large capacity magazines. In fact, most firearms manufacturers do not consider the magazine as integral enough to build their own magazines for their own guns. In almost all cases, even the largest gun manufacturers contract with accessory makers who build magazines and then supply them to the gun

manufacturer, who then sells the magazines with the guns but also as an “add-on” accessory. This is not true of other more integral components such as barrels, triggers and firing pins. Based on my experience, these magazines are a large profit center for the gun industry and sales of these magazines are treated as a category separate from gun sales throughout the sales chain. For example, I am aware of compensation programs from gun manufacturers that offer increased percentage in sales commission payments for sales of magazines as opposed to firearms. Retailers often incentivize their employees to push a buyer to purchase additional magazines because it is known that consumers view the purchase of magazines as separate from the gun and they are therefore viewed as “add-on sales” for retailers.

31. Almost always, these magazines are manufactured by outside contracted suppliers (not the manufacturer of the firearm). The degree to which a magazine is viewed as an accessory by firearms retailers is reinforced by the fact that when manufacturers add additional magazines to the gun at time of sale as an incentive to encourage consumers to purchase the gun, the practice often upsets the retailers who view this as taking away an accessory sale they could have made. Below is a recent promotion from a firearms manufacturer which both advertises magazines as sales incentives and offers 10-round magazine options:

NEW **KIMBER DAILY CARRY PACKAGE**



R7 MAKO HIGH-CAP & 10RD COMPLAINT PACKAGES AVAILABLE

5 TOTAL MAGS, HOLSTER & RANGE BAG INCLUDED

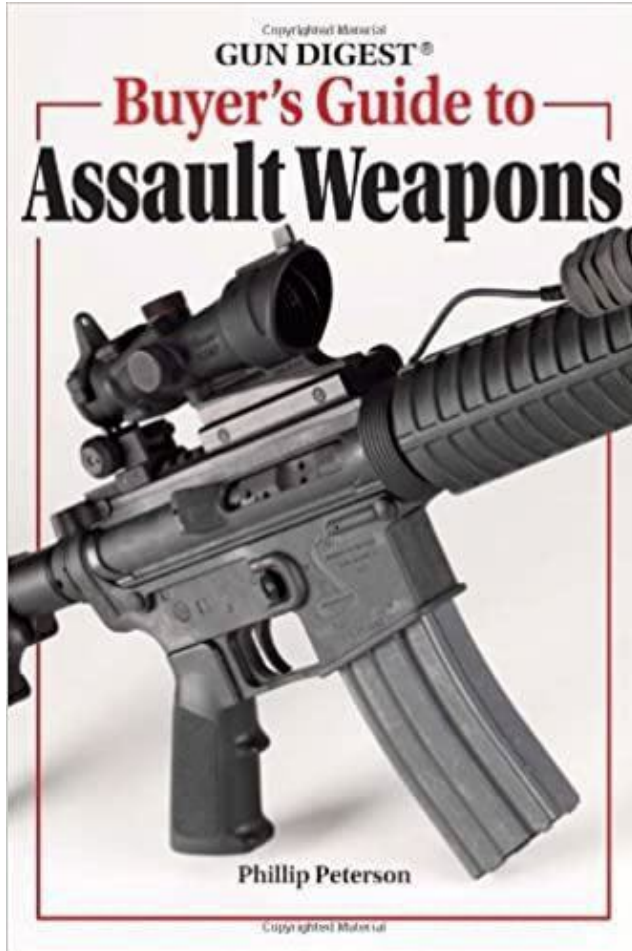
The advertisement features two Kimber R7 Mako handguns, one in the foreground and one slightly behind it. To the right of the handguns are five magazines with orange-tipped rounds. A black holster is positioned to the right of the magazines. The background is dark with a white Kimber logo. The text is in bold, white, sans-serif font, with 'NEW' in a yellow box and 'MAKO' in blue.

C. History And Marketing of AR-15s and Similar Assault Weapons

32. While there is no universally accepted definition of assault weapon, the term generally refers to a firearm that incorporates a set of physical features that increase the effectiveness of killing enemy combatants in offensive battlefield situations, usually in close and medium-range warfare. This list of features generally includes but is not limited to, the features enumerated in the Hawaii law and includes pistol grips, semi-automatic or fully-automatic fire control systems, the capability to accept detachable magazines, and barrel shrouds.

33. All AR-15 firearms (including all AR-15 pistols) are derivatives of the Armalite Rifle (AR) model 15, which was originally designed for the United States Military in the late 1950s. The AR-15 was specifically designed to satisfy clearly stated military requirements for an assault rifle. The AR-15 incorporated features that achieved these requirements, which included: being lightweight, easily portable, accurate, high-capacity-capable, low recoil, and fast-firing. The AR-15 was therefore adopted by the U.S. military in the early 1960s. The firearms industry openly referred to these and all similar weapons as “assault weapons” and “assault rifles” as late as 2008, as evidenced by this 2008 issue of Gun Digest,

which is commonly accepted in the industry as a prominent authority and advertising venue:⁹



34. One important feature of the AR-15 (and other similar platforms like the AK-47) is the “chambering” or cartridge the rifle is designed to accept. The standard cartridge for the AR-15 is a .223Rem (5.56 is NATO equivalent) which was selected by the military for very specific reasons. While it is commonly

⁹ One of many listings for archived issues of Gun Digest for sale from various resellers: <https://www.amazon.com/Digest-Book-Assault-Weapons-Fifth/dp/087341778X> (last visited Jan 30, 2023).

reported that the AR-15 is a “high power” weapon, the .223 cartridge is not in fact “high power” compared to almost all other hunting rifles that have been sold for more than a century in the United States. As an example, a common .30-06Spfg bolt-action hunting rifle is much more powerful than an AR-15 chambered in .223 when individual shots from each are compared. The .223 (and other similarly sized cartridges common in modern assault rifles) were not chosen because they are “high power” relative to most rifle rounds (although they are more powerful than handgun rounds). Instead, they were chosen for their combination of small size, fast bullet speed, and low recoil impulse, which were all specifically requested in the military requirements. The bullets from these smaller and faster cartridges are very deadly at short and medium ranges. These cartridge characteristics were selected because they result in a rifle that can be high-capacity, accept loaded magazines which are easy to transport, and also be very easy to fire repeatedly while staying on target. The reasoning for the military decision on this chambering is summed up in this article from *Business Insider*: “The smaller rounds weighed less, allowing troops to carry more ammunition into the fight. They also created less recoil, making it easier to level the weapon back onto the target between rounds and making automatic fire easier to manage. Tests showed that troops equipped with smaller 5.56 mm rounds could engage targets more

efficiently and effectively than those firing larger, heavier bullets.”¹⁰ This is why AR-15 and AK-47 platform weapons remain the assault weapon of choice for military operations in short and medium range scenarios where repeated and accurate offensive shooting is desired. These are the same general attributes which appear to be desired by many recent mass shooters in the United States.

35. For AR-15 pistols, the potential bullet velocity of these cartridges is generally decreased due to the shortened barrel. This is true because longer barrels provide more burn time for the propellant (gun powder). Generally speaking, the short barrels of assault pistols do not allow enough time for all powder to burn or propel the bullet. This reduced velocity generally results in a gun that fires a bullet with a muzzle velocity of around 2300-2600 feet per second. This is much faster than most other pistols, but slower than full length rifle versions which generally fire bullets with velocities of 2700-3000 feet per second. This is considered a performance drawback of the guns. However, the increased portability of the pistol versions is considered an advantage in tight spaces such as urban settings and inside buildings. Two notable mass shooting events involving AR-15 pistols

¹⁰ Story on background of AR-15 and chambering history <https://www.businessinsider.com/why-did-us-military-switch-from-762mm-round-to-556mm-2019-9> (last visited on Jan. 27, 2023).

occurred in crowded urban environments. One in a crowd outside a Dayton, OH, bar and one in a grocery store in Boulder, CO.

36. Military versions of the AR-15 are generally capable of “fully automatic” and “burst” rates of fire. These automatic firing modes, which produce multiple shots with one trigger pull, are generally used not to target and kill individual combatants but rather to suppress enemy fire. An article from SOFREP, (a respected digital outlet written and maintained by “former American and US Coalition Military Veterans”) reinforces this truth with this statement: “In combat, automatic weapons are more commonly employed as a means of suppressing enemy movements than they are in actually killing the enemy.”¹¹ Therefore, “semi-automatic” mode is the mode that is most often deployed in battle to efficiently target and kill because it allows targeting of specific human targets with repeated accurate shots rather than inaccurate, indiscriminate “spray.” It is my experience that respected Special Forces trainers therefore teach that “semi-auto” is the preferred and most lethal setting in most wartime scenarios.

37. United States civilian-legal versions of the AR-15 (and other “assault weapons” sold into the U.S. commercial market) are semi-automatic firearms.

¹¹ Article on full auto or semiautomatic from SOFREP <https://sofrep.com/news/how-are-automatic-weapons-actually-used-by-militaries-in-combat/> (Last visited Jan 30 2023).

38. While the AR-15 and its derivatives are by far the most common assault-style weapons in the United States, there are many other firearms that share the same purpose and generally have the same defining features. Those firearms include firearms utilizing all or part of the AK-47 platform as well as many others.

39. The original patent for the gas operating system central to the AR-15 being rapidly fired with minimal recoil expired in 1977,¹² which subsequently allowed the engineering prints for the AR-15 to be publicly available to all firearms companies. From that point forward, there could have been a large-scale, immediate, and legal proliferation of direct copies of these rifles into the United States commercial market. But that did not happen, at least not until nearly two decades later. In fact, when I first started my work in the gun industry in the 1990s, assault weapons, including AR-15s, were not common, and within the gun industry the acceptance or promotion of this product category was thought to be irresponsible and potentially dangerous.

40. This former self-imposed industry “regulation” is evidenced in the commercial sales of AR-15s. During the period between 1964 and 1994, first for Colt, and then also for all companies who produced the guns after Colt’s patent sunset, commercial AR-15 sales averaged fewer than 27,000 units per year for a

¹² Gas Operated Bolt and Carrier System, U.S. Patent No. 2,951,424 (accessible at <https://patents.google.com/patent/US2951424A/en>).

total of about 787,000 units in the 30-year period 1964-1994.¹³ Even during the 10-year period of the federal assault weapons ban (1994-2004), AR-15s were legal to produce and sell as long as they did not incorporate and combine additional features as enumerated in that legislation. Even after that federal legislation expired, the gun industry did not immediately begin producing or selling these guns in large numbers. That is because there was a continued general agreement in the industry that these guns, which were very clearly designed for military-style, offensive (i.e., attacking) use, and related gun paraphernalia—including virtually all large capacity magazines, which were generally also considered to be for military-style, offensive use—would not be displayed at trade shows or used at industry-sponsored shooting events.

41. This voluntary prohibition also extended to the largest sporting goods retailers in the country, almost none of which would sell or display assault weapons or AR-15s or AK-47s in their stores until the mid-2000s. Individuals in the shooting industry were asked not to bring such rifles to industry events or promote them publicly. The NSSF, which administers the main industry trade

¹³ Estimating AR-15 Production, 1964-2017 (Nov. 9, 2019), http://www.alternatewars.com/Politics/Firearms/Count/AR15_Production.htm (last visited Jan. 12, 2023) (compiling data from the Bureau of Alcohol Tobacco, Firearms & Explosives' *Annual Firearms Manufacturing and Export Reports*, among other sources).

show (SHOT show), also severely restricted the display of military and tactical gear or weapons in its own trade show. This remained true as late as 2006. It was not until very recently that the gun industry began to push AR-15s and other assault-style guns, leading to their well-documented proliferation today. The following table of data compiled by the National Shooting Sports Foundation (NSSF), the firearms industry trade group, clearly illustrates that sales of such guns (MSR, AR-15 and AK-47) have increased by 3927% from 1990 until now, despite the fact that no federal, and few state restrictions on such guns existed in 1990.

(74,000 units in 1990 versus 2,798,000 in 2020):¹⁴

Estimated Modern Sporting Rifles in the United States 1990 – 2020

Year	US Production less exports of MSR/AR platform	US Import less exports of MSR/AR, AK platform	ANNUAL TOTAL
1990	43,000	31,000	74,000
1991	46,000	69,000	115,000
1992	33,000	72,000	105,000
1993	62,000	226,000	288,000
1994	103,000	171,000	274,000
1995	54,000	77,000	131,000
1996	27,000	43,000	70,000
1997	44,000	81,000	125,000
1998	70,000	75,000	145,000
1999	113,000	119,000	232,000
2000	86,000	130,000	216,000
2001	60,000	119,000	179,000
2002	97,000	145,000	242,000
2003	118,000	262,000	380,000
2004	107,000	207,000	314,000
2005	141,000	170,000	311,000
2006	196,000	202,000	398,000
2007	269,000	229,000	498,000
2008	444,000	189,000	633,000
2009	692,000	314,000	1,006,000
2010	444,000	140,000	584,000
2011	653,000	163,000	816,000
2012	1,308,000	322,000	1,630,000
2013	1,882,000	393,000	2,275,000
2014	950,000	237,000	1,187,000
2015	1,360,000	245,000	1,605,000
2016	2,217,000	230,000	2,447,000
2017	1,406,000	158,000	1,564,000
2018	1,731,000	225,000	1,956,000
2019	1,679,000	169,000	1,848,000
2020	2,466,000	332,000	2,798,000
TOTALS	18,901,000	5,545,000	24,446,000

Source: ATF AFMER, US ITC, Industry estimates

¹⁴ https://www.nssf.org/wp-content/uploads/2022/07/EstMSR1990_2020.pdf (last visited Jan. 12, 2023).

42. It is my experience that this proliferation is the result of a direct and purposeful industry marketing effort. In 2009 as part of this effort, the firearms industry through the NSSF, facilitated a public re-branding of assault rifles in an effort to make them more socially acceptable. As such, the NSSF broadly encouraged an industry-wide effort to rename such guns “Modern Sporting Rifles” or MSRs. Even though the guns themselves were only steadily “improved” in many functional areas that impact lethality of a military assault rifle, industry members, including me, were then strongly encouraged to stop using the term “assault rifle” or even “tactical rifle” because those terms were thought a too-transparent label that referenced offensive military assaults which would therefore harm the public perception of such guns and decrease the sales of companies that build them. Despite the fact that well into the 2000s, almost everyone in the industry used the terms assault weapon and assault rifle, NSSF purposefully sought to reframe the origin of this terminology and distance the firearms industry from it with statements that are still on the NSSF marketing material and website yet today: “If someone calls an AR-15 or other semi-automatic rifle an ‘assault weapon,’ he or she either supports banning these firearms or does not understand their function and sporting use, or both. Please correct them. ‘Assault weapon’ is a political term created by California anti-gun legislators to ban some semi-automatic rifles there in the 1980s.”¹⁵

43. While assault pistols are technically separate and therefore not considered “MSRs”, they are built on the same platforms, generally marketed in the same way, and most are generally considered to be AR-15s. The emergence of AR-15 pistols onto the market is relatively new and until recently seemed to many gun buyers as a “bad joke.”¹⁶ However, recent increases in the models offered and in marketing of these guns has resulted in these AR-15 pistols becoming an accepted part of most AR-15 product lines.

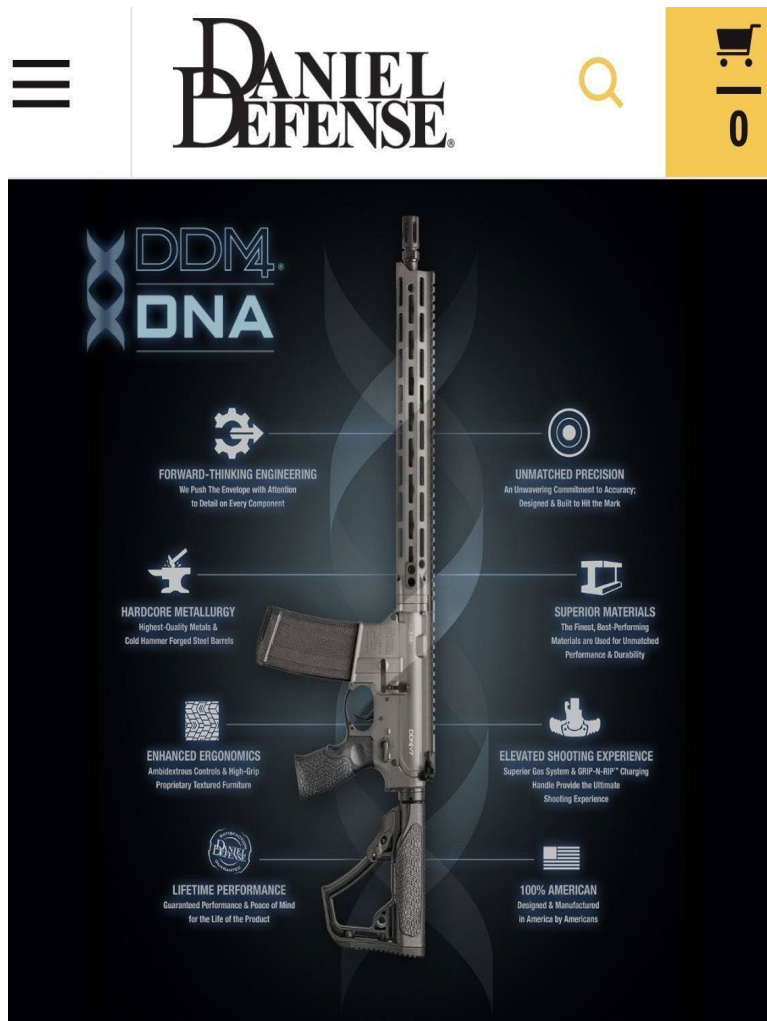
44. During the late 2000s and continuing through today, there has been a rapid increase in the number of companies that manufacture and market their own versions of AR-15s and other similar assault rifles. This has resulted in a transformation of the marketplace from only a few AR-15 manufacturers in 2000, to several hundred AR-15/assault weapon companies today. The list of AR-15 manufacturers now includes small, medium, and the largest firearms companies in the United States, all of whom are striving to obtain market share with derivatives of what is effectively the same rifle. This reality has created a highly competitive market resulting in thousands of “continuous improvements” in the AR-15-style firearms sold to the general public as a way to encourage consumers to buy one

¹⁵ NSSF MSR marketing webpage <https://www.nssf.org/msr/> (last visited Jan 20, 2023).

¹⁶ Article on the recent acceptance and change for AR-15 pistols <https://medium.com/war-is-boring/the-ar-15-pistol-seemed-like-a-bad-joke-at-first-77d9dad71022> (last visited Jan 31, 2023).

rifle over another. Over time, these improvements have generally been incorporated on most rifles across the marketplace and therefore result in firearms that are almost universally more accurate, more portable, and more specifically tailored to produce lethal outcomes. Relative to the AR-15 assault rifles requested and then adopted by the U.S. military, the commercially available AR-15s of today are more reliable, more accurate, more ergonomic, and therefore more effective. This trend of “improvement” continues and is aggressively advertised each day by dozens of firearms companies. For example, this is a typical marketing page¹⁷ for an AR-15 manufacturer in which a prominent company advertises the various ways in which its features “improve” upon the basic AR-15:

¹⁷ <https://danieldefense.com/daniel-dna> (last visited Jan. 10, 2023).



45. The increase in the AR-15 market has also facilitated an increase in accessory availability for the AR-15 and similar firearms (commonly referred to as “furniture”). Most AR-15s and similar firearms now incorporate features designed

to accept one or more of dozens of accessories, all of which are designed and marketed to increase the effectiveness of the rifle in live-fire situations. The list of accessories includes highly-effective electronic optics, more sensitive triggers, devices such as bump stocks and modified trigger systems which convert guns to near-fully-automatic rates of fire, forward and pistol grip options, tactical lights, laser-pointing devices, high-capacity magazines, and many others. Almost none of these accessories were available to the United States military at the time of the rifle's adoption in the early 1960s, and in many cases U.S. civilians can now outfit rifles in a manner more lethal than the rifles carried by the military. There are now hundreds of companies and retailers who encourage customers to make their rifles more effective by accessorizing. The following are examples of industry marketing efforts which illustrate this trend. Most all accessories are sold and are applicable for AR-15 pistols as well as rifles:¹⁸

¹⁸ AR-15 accessory article examples: <https://www.tactical-life.com/gear/top-10-black-guns-ar-accessories/> (last visited Jan. 10, 2023), and <https://www.pewpewtactical.com/best-ar-15-furniture-accessories/> (last visited Jan. 10, 2023).

TACTICAL LIFE NEWS GUNS GEAR
HO, HO HO - It's MAGNUM Free Gun Friday! Enter to WIN a \$14,000 Prize Package!

Top 10 Black Guns AR Accessories

by Tactical-Life — January 4, 2015

0



Top 10 Black Gun AR Accessories

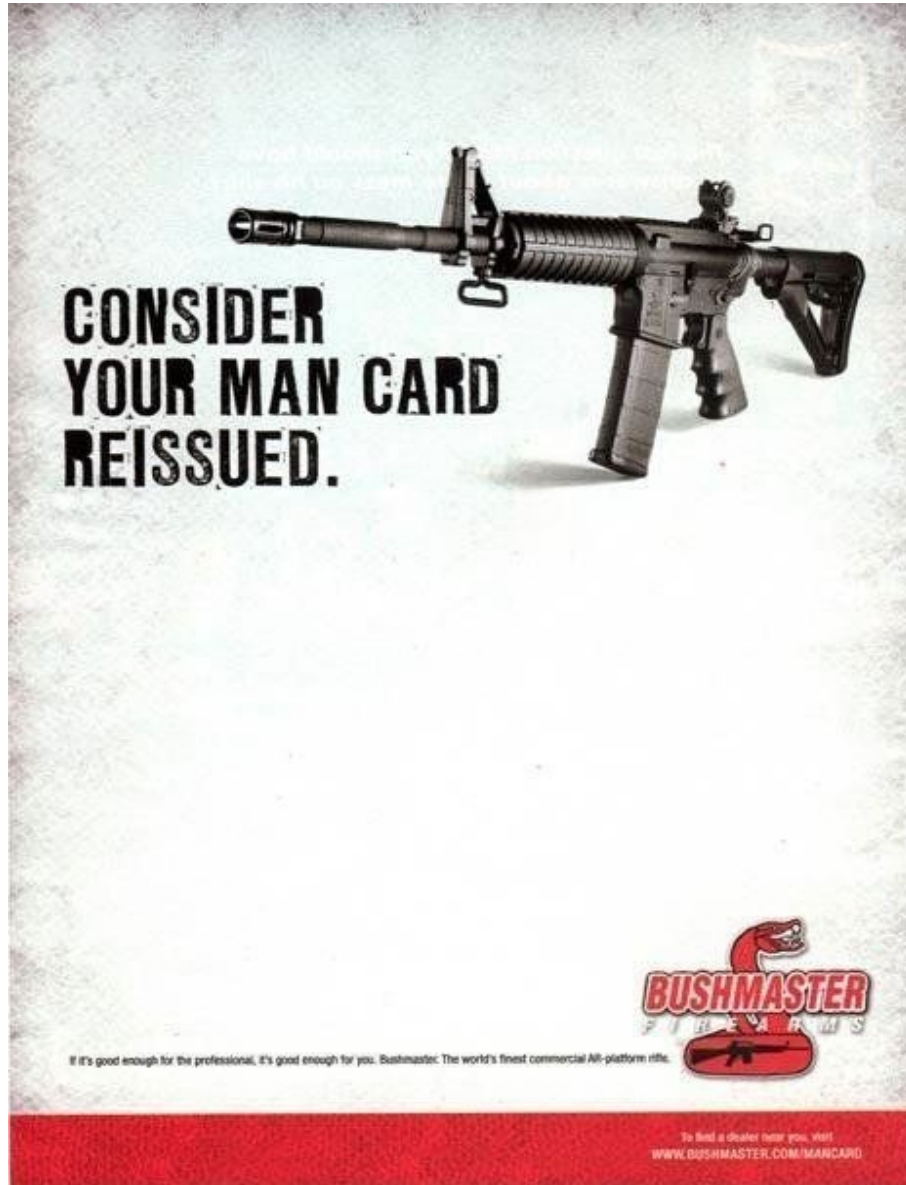


Best AR-15 Upgrades: Triggers, Brakes, Handguards, BCGs & More - Pew Pew Tactical

Visit

Images may be subject to copyright. [Learn More](#)

46. The competitive AR-15/assault weapon marketplace has also resulted in manufacturers seeking to create new customers through professional, targeted marketing campaigns. Most of these campaigns overtly target young American males, such as this example from 2010:



The gun advertised in this campaign (Bushmaster XM15 rifle) has been used by young men in notable mass shootings, including those in Sandy Hook, CT and

Buffalo, NY and Bushmaster offers a pistol version of their AR-15.¹⁹

47. Other prevalent AR-15 marketing encourages potential customers to buy and deploy the same weaponry as elite Special Forces units of the U.S. military. It is my experience that most of these customers are young men. In other words, marketing within the firearms industry admits to, and capitalizes on, the AR-15-style weapons as a military weapon sold to young men, as in this example:



¹⁹ Bushmaster XM15 Mancard advertising article: <https://www.ammoland.com/2010/05/bushmaster-man-card/#axzz7q0HQao58> (last visited Jan. 10, 2023).

Daniel Defense AR-15 pistol version:



Daniel Defense sells a pistol version of this gun and a version of the Daniel Defense AR-15 was featured in the Modern Warfare²⁰ video game and used in the Uvalde, TX shooting.²¹

48. Smith and Wesson's AR-15 variant is now widely reported to be the best-selling AR-15 in the United States and the company offers the gun in both pistol and rifle variants. These guns have been used in notable mass shootings including in the Parkland, Florida school shooting and in the Highland Park, IL July 4th parade shooting. Smith and Wesson's primary customers for this rifle are U.S. civilians who are generally not trained in military or police tactics nor monitored by military safety protocols, but the company's chosen name for this

²⁰ One of many youtube captures of the DDM4 Daniel Defense rifle in Modern Warfare: https://www.youtube.com/watch?v=KM_sdzKGGKv0 (last visited Jan. 30, 2023).

²¹ Michael Daly, *Uvalde Shooter's Gunmaker Hypes 'Revolutionary' New Killing Machine*, <https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine> (last visited Jan. 10, 2023) (showing Daniel Defense advertisement).

rifle—the M&P15, which means “Military and Police AR-15”—suggests buyers will be equipped with the same rifles as trained military and police units.²²




SPECIFICATIONS

Model:	M&P [®] 15 SPORT™ II	Overall Length:	35.0" (88.90 cm) Extended
SKU:	I0202		32.0" (81.28 cm) Collapsed
Caliber:	5.56 mm NATO	Grip:	Polymer
Action:	Gas Operated Semi Auto	Weight:	6.45 lbs. (2,925.7 g)
Capacity:	30+1 Rounds	Barrel Material:	4140 Steel
Barrel Length:	16" (40.64 cm)	Upper Material:	7075 T6
Front Sight:	Adj. A2 Post	Lower Material:	Aluminum
Rear Sight:	Folding Magpul [®] MBUS [®]	Finish:	Matte Black
		UPC Code:	022188868104

OTHER FEATURES

- Forged, Integral Trigger Guard
- Armornite[®] Finish (Durable Corrosion Resistant Finish)
- Chromed Firing Pin
- Forward Assist
- Dust Cover
- 30 Round PMAG[®]
- Rifling: 1/9, 6 groove

Smith and Wesson Military and Police Pistol Version:



²² <https://www.smith-wesson.com/product/mp-15-sport-ii> (last visited Jan. 10, 2023).

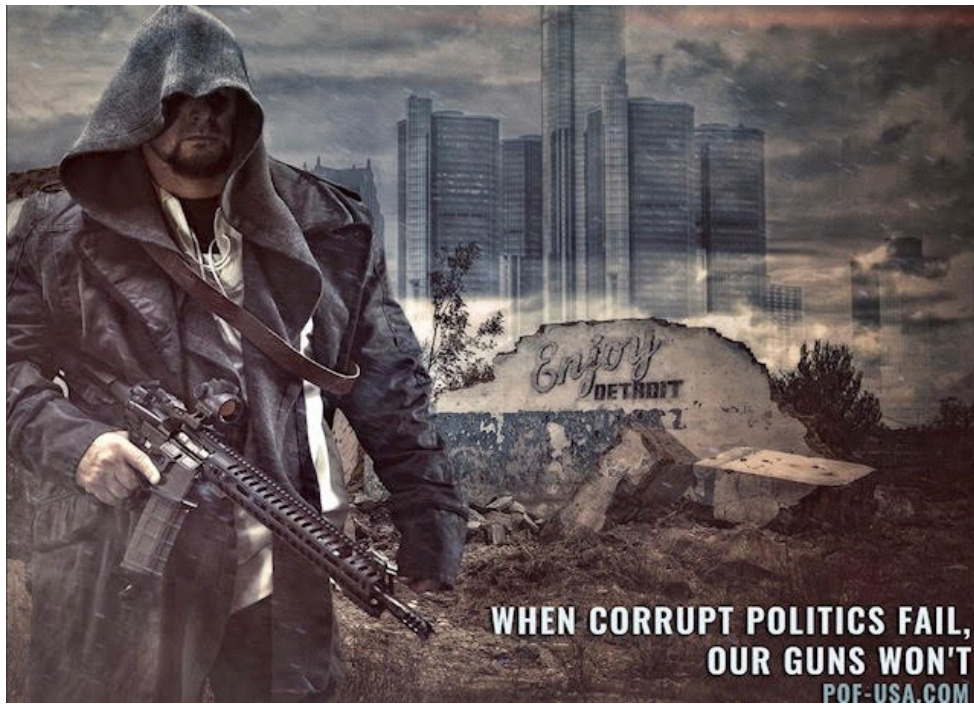
49. An increasing number of smaller AR-15 manufacturers often seek to grow their market by advertising in ways that depict young men inciting or engaging in armed urban warfare, such as in this recent example from AR-15 maker Spike’s Tactical which offers their AR-15s in several pistol versions, and encourages men to deploy their AR-15s in armed conflict across the United States:²³



Spike Tactical “Pipe Hitter Union” AR-15 pistol:



50. Other AR-15 manufacturers now often seek to spur sales by depicting men deploying their personal AR-15s in self-appointed armed vigilante actions, such as this advertising image supplied by the AR-15 maker Patriot Ordnance Factory, which also offers many AR-15 pistol options along with their AR-15 rifles:²⁴



POF-USA Renegade AR-15 Pistol:



²⁴ <https://pof-usa.com/wallpapers/> (last visited Jan. 10, 2023).

51. Some prominent AR-15 companies design and market their models with specific suggested uses that bear obvious similarities to mass shooting events that have happened in U.S. urban environments such as the Pulse Nightclub, Las Vegas Concert Shooting, and the El Paso Walmart shooting. This is one relevant example from AR-15 maker Wilson Combat which offers both pistol and rifle versions of their AR-15:²⁵



Wilson Arms AR-15 Pistol:



52. There are many AR-15 companies that combine the trends of continuous improvement, accessorization, and modern digital marketing to encourage potential customers to personalize and optimize their rifles through an

²⁵ <https://www.wilsoncombat.com/ar-calibers/224-valkyrie/super-sniper/> (last visited Jan. 10, 2023).

online ordering process. Below is one such example.²⁶ The official corporate name of this manufacturer further suggests the preferred use of their AR-15s is from “rooftops,” which is precisely how the shooter during the July 4th Highland Park, IL parade deployed his AR-15 rifle and large capacity magazines. On the same website offering Rooftop Arms AR-15 pistols, the company proclaims: “If you can dream it, we can build it.”.



²⁶ <https://rooftoparms.com/> (last visited Jan. 10, 2023).

Rooftop Arms AR-15 Pistol:



53. In my experience, many individuals and companies in the firearms industry who once imposed reasonable self-restraint regarding sales and marketing practices now operate under the belief that the Protection in Lawful Commerce in Arms Act (PLCAA),²⁷ which became law in 2005, provides a liability shield for product development, sales and marketing efforts. It is also my experience that the AR-15/assault weapon marketing as detailed in the examples above has increased in frequency and become much more explicit since PLCAA enactment.

²⁷ 15 U.S.C. §§ 7901–7903.

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

DATED: Kalispell, Montana, February 14, 2023.

A handwritten signature in black ink, appearing to read 'R Busse', written over a horizontal line.

RYAN BUSSE

RYAN BUSSE

440 Lake Hills Ln, Kalispell, MT 59901 · 406.253.0381

www.ryanbusseauthor.com

montanabusse@gmail.com · [linkedin.com/ryan-busse](https://www.linkedin.com/ryan-busse) · [Twitter @ryandbusse](https://twitter.com/ryandbusse) · [Instagram @ryanbusseauthor](https://www.instagram.com/ryanbusseauthor)

SPEAKER · FIREARMS INDUSTRY EXPERT · AUTHOR

FIREARMS INDUSTRY AND GUN POLICY EXPERIENCE

GUN INDUSTRY CAREER

- **25-year sales and marketing executive** leader with extensive industry connections and knowledge
- Pioneered industry-changing dealer direct sales method
- Responsible for worldwide sales efforts and more than \$250million in annual revenues
- Built one of the firearms industry's **most respected worldwide sales** teams from ground up.
- Developed and managed multi-million-dollar budgets
- Deep and thorough understanding of all **competitive industry sales channels, marketing programs, and distribution methods**
- **Recognized multiple times by industry peers** as one of three finalists for Industry Person of the Year (highest personal award in the shooting industry)
- **Expert on gun industry sales and marketing histories** and current firearms industry trajectory

WRITING AND SPEAKING

- Wrote critically acclaimed first-ever firearms industry personal memoir: **[Gunfight – My Battle Against The Industry That Radicalized America \(2021\)](#)**
- Regular contributor to **The Atlantic, The Bulwark, The Guardian**, and others
- Guest on more than 60 national podcasts
- Regular guest policy expert on **CNN, MSNBC, PBS, NPR, ABC, CBS**, and many others
- Keynote speaker

POLICY ADVISOR

- Senior Policy Advisor to **Giffords** (2020-current)
- Briefed **United States Senate** Democratic Caucus (2022)
- Advisor to **Biden for President** campaign – Hunting and Outdoor issues (2020)
- Testified before **Joint Economic Committee** (2022)
- Testified before **House Oversight and Reform Committee** (2022)

See another notable policy, podcast, cable news, and national publication updates at www.ryanbusseauthor.com

FIREARMS INDUSTRY AND CONSERVATION ORGANIZATION LEADERSHIP EXPERIENCE

Kimber July 1995-Sept 2020, Kalispell, Montana & Yonkers, New York
kimberamerica.com

EXHIBIT A (Busse)

VICE PRESIDENT, SALES

EMPLOYEES: 560

Overall worldwide sales authority, providing strategic leadership and direction of the most successful and pioneering dealer-direct sales model in the outdoor sporting goods industry. Lead projects, people and processes that build brand, drive innovation and retain competitive positioning.

- Created a highly successful, stand-alone sales operation and direct sales model producing exceptional employee work satisfaction, high efficiency and repeatable YOY sales results
- Produced consistent revenue growth by as much as 23% YOY
- Optimized operations and strategically cut costs during economic downturn, holding gross margins without increasing sales expense

Backcountry Hunters & Anglers 2014 – 2020, Missoula, Montana

backcountryhunters.org

BOARD CHAIR, 2014-2020 **EMPLOYEES: 38**

Backcountry Hunters & Anglers seeks to ensure North America's outdoor heritage of hunting and fishing in a natural setting, through education and work on behalf of wild public lands and waters.

- Drove membership with bold action and singular, strategic attention to public lands issues.
- Drove effort to partner with outdoor industry/community resulting in unexpected partnerships from brands such as Patagonia
- Played key leadership role in motivating nationwide “grasstops” to influence legislation such as SB 47 Passage (John Dingell Conservation, Management and Recreation Act)
- Lead public voice against reduction of National Monuments and degradation of Antiquities Act.

Montana Conservation Voters 2007-2013, Helena, Montana

mtvoters.org

Montana Conservation Voters is a statewide membership organization serving as the political voice of Montana’s conservation and environmental community.

- Played key role in endorsement and election of conservation champions including U.S. Senator Jon Tester and Governor Steve Bullock
- Grew membership by 100% during tenure
- Guided campaigns for state and federal races with election-year budgets of \$2M+
- Increased operation budget 75% during tenure
- Developed key foundation support to secure organizational funding
- Grew full-time employees from 3 to 5

EDUCATION

Bachelor of Science, History and Political Science, 1992

Bethany College / Lindsborg, KS

Professional Marketing and Sales Management Certification, 2006

Rutgers University – School of Business / Camden, NJ

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai'i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

**DECLARATION OF
CHRISTOPHER B. COLWELL,
M.D.**

DECLARATION OF CHRISTOPHER B. COLWELL, M.D.

I, Christopher B. Colwell, M.D., declare under penalty of perjury that the following is true and correct:

1. I am the Chief of Emergency Medicine at Zuckerberg San Francisco General Hospital and Trauma Center and Professor and Vice Chair in the Department of Emergency Medicine at the University of California at San Francisco School of Medicine. This declaration is based on my personal knowledge and experience, and if called as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

EXHIBIT "3"

2. I have been retained by the Department of the Attorney General, State of Hawaii, to render expert opinions in this case. I am being compensated at a rate of \$250 per hour.

BACKGROUND AND QUALIFICATIONS

3. I am currently the Chief of Emergency Medicine at Zuckerberg San Francisco General Hospital and Trauma Center and Professor and Vice Chair in the Department of Emergency Medicine at the University of California at San Francisco School of Medicine. I was previously the Chief of Emergency Medicine at Denver Health Medical Center and Professor and Executive Vice Chair in the Department of Emergency Medicine at the University of Colorado School of Medicine. I received my residency training in Emergency Medicine at Denver General Hospital in the Denver Affiliated Residency in Emergency Medicine and am board certified by the American Board of Emergency Medicine (ABEM) in both Emergency Medicine and Emergency Medical Service (EMS). I am currently licensed to practice medicine in the state of California.

4. I have over 25 years of experience treating gunshot wound victims in the Emergency Department at large urban level I trauma centers and in that time have treated over a thousand patients with gunshot wounds. I am qualified to offer opinions as to the physiologic trauma caused by gunshot wounds and other penetrating injuries.

5. I have provided expert testimony in *Worman v. Healey*, No. 1:17-cv-10107-WGY (D. Mass.), *Rupp v. Becerra*, No. 8:17-cv-00746-JLS-JDE (C.D. Cal.), *Miller v. Bonta*, No. 3:19-cv-01537-BEN-JLB (S.D. Cal.), and *Duncan v. Bonta*, No. 3:17-cv-1017-BEN-JLB (S.D. Cal.).

6. A list of my work history, educational background, publications, and expert witness testimony is included in my curriculum vitae, which is attached to this declaration as **Exhibit A**.

OPINIONS

7. I have experienced first-hand the extensive damage caused by assault weapons, and I have witnessed both victims and on occasion even shooters experience the horror of what these weapons can do.

8. In one instance, a man who had shot his girlfriend with an assault rifle said he had had no idea how destructive assault weapons can be. He admitted to me that he had used a newly acquired AR-15 in the shooting. I have seen the devastating impact these events have on the lives of my patients and their families. I have spoken extensively around the country on the experience of caring for victims of mass shootings and have testified as the treating physician on multiple occasions to describe the extent of injuries due to gunshot wounds from all weapons, including assault weapons, in criminal trials. I was subpoenaed in these

cases by the prosecuting district attorney and was not compensated for that testimony.

9. Firearm injuries are an important public health problem in the United States, accounting for more than 30,000 deaths each year in addition to significant illness and disability. I have extensive experience with the different wounds caused by assault and non-assault weapons and the consistently more serious nature of the injuries from assault weapons. Gunshot wounds from assault weapons, such as AR-15 platform rifles and Intratec TEC-9 pistols, tend to be higher in complexity with higher complication rates than such injuries from non-assault weapons, increasing the likelihood of morbidity in patients that present with injuries from assault weapons. In my experience, assault weapons—including assault pistols—tend to cause far greater damage to the muscles, bones, soft tissue, and vital organs. They are too often shredded beyond repair.

10. My first-hand experience treating victims of gunshot wounds includes being the physician at the scene of the Columbine High School shooting on April 20, 1999, in which a TEC-DC 9 pistol and a Hi-Point 995 rifle were used, and as an Emergency Department physician treating victims of the Aurora Theater shooting on July 20, 2012, in which an AR-15 rifle was used. I have treated many other patients that have been both victims and shooters of assault weapons, and have also treated many victims and shooters of non-assault weapons. While

significant injury can certainly result from non-assault weapons, my experience has been that individuals who have been shot by assault weapons tend to have more wounds and injuries that are far more extensive. These weapons cause significantly more damage and have resulted in higher morbidity and mortality than other weapons.

11. There is no doubt in my mind that victims of assault weapons are at far greater risk of both immediate and long-term complications. These complications include higher amputation rates and higher infection rates. A vivid example was a victim of a shooting from a Glock handgun who presented to our Emergency Department with an elbow wound. We were able to treat this wound and release the patient from the Emergency Department. Just three months earlier, I had seen a patient shot in the exact same spot with an AK-47 and the arm needed to be amputated just below the shoulder. This is just one example of the additional damage and destruction assault weapons cause, which I have witnessed in the course of treating trauma patients. In each of these examples, law enforcement informed me of the weapon used in the shooting.

12. Assault weapons, especially when equipped with large capacity magazines that can hold 30, 50, or even 100 rounds of ammunition, can fire more shots without reloading, causing more injuries per victim (and thus more

complications), and many of the most devastating injuries I have managed in my over 25 years of experience treating gunshot wound victims.

13. It is my opinion that while all weapons pose risk, assault weapons—including assault pistols—especially when equipped with large capacity magazines, pose a far greater risk to the public from a medical standpoint than non-assault firearms.

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

DATED: San Francisco, California, February 14, 2023.



CHRISTOPHER B. COLWELL, M.D.

Curriculum Vitae
Christopher Beall Colwell, M.D

Current Position:

**Chief, Department of Emergency Medicine
Zuckerberg San Francisco General Hospital and Trauma Center
Professor and Vice Chair, Department of Emergency Medicine
UCSF School of Medicine**

Work Address:

Zuckerberg San Francisco Hospital and Trauma Center
Department of Emergency Medicine
1001 Potrero Ave. #6A02
San Francisco, CA 94110

Christopher.Colwell@ucsf.edu
Phone: (415) 206-2518
Fax: (415) 206-5818

Board Certification:

- 1) American Board of Emergency Medicine 1997
Re-certification 2007, 2017
- 2) American Board of Emergency Medicine – Emergency Medical Services 2015

NPI number – 1629092788
California license – G142756 (active)
Colorado license – 34341 (not active)
Michigan license – 4301059401 (not active)

Education:

**Undergraduate: University of Michigan
Ann Arbor, Michigan
Bachelor of Science Degree, 1988**

**Medical School: Dartmouth Medical School
Hanover, New Hampshire
Medical Doctorate, 1992**

Internship: St. Joseph Mercy Hospital/University of Michigan
Ann Arbor, Michigan
Transitional Medicine, 1993

Residency: Denver Affiliated Residency in Emergency Medicine
Denver, Colorado, 1993-1996
Chief Resident 1995-1996

Academic appointments:

1. **Professor and Vice Chair**
Department of Emergency Medicine
University of California at San Francisco School of Medicine
2016 - Present
2. **Professor of Emergency Medicine**
Department of Emergency Medicine
University of Colorado School of Medicine
2012-2016
3. **Executive Vice Chair, Department of Emergency Medicine, 2010 - 2016**
University of Colorado School of Medicine
2010-2016
4. **Associate Professor of Emergency Medicine**
Department of Emergency Medicine
University of Colorado School of Medicine
2010-2012
5. **Associate Professor of Emergency Medicine**
Division of Emergency Medicine, Department of Surgery
University of Colorado Health Sciences Center
2004-2009
6. **Assistant Professor of Emergency Medicine**
Division of Emergency Medicine, Department of Surgery
University of Colorado Health Sciences Center
Denver, Colorado
1998-2004
7. **Assistant Professor of Emergency Medicine**

**Department of Emergency Medicine, University of Michigan School of
Medicine
Ann Arbor, Michigan
1996-1998**

Clinical appointments:

- 1. Chief of Emergency Medicine, 2016-present
Department of Emergency Medicine
Zuckerberg San Francisco General Hospital and Trauma Center
San Francisco, California**
- 2. Director of Emergency Medicine, 2010 – 2016
Interim Director of the Department of Emergency Medicine, 2009-2010
Associate Director, 2000-2009
Attending Physician, 1998-2016
Department of Emergency Medicine
Denver Health
Denver, Colorado**
- 3. Program Director, EMS Fellowship
2002-2010**
- 4. Medical Director, Denver Paramedic Division
2000-2010**
- 5. Medical Director, Denver Fire Department
2000-2010**
- 6. Associate Director, Denver Paramedic Division
1998-2000**
- 7. Senior Associate Director, Denver Health Residency in Emergency Medicine
2009 - 2016**
- 8. Attending Physician, 1996-1998
St. Joseph Mercy Hospital/University of Michigan
Ann Arbor, Michigan**

Fellow Appointments:

- 1. Fellow - American College of Emergency Physicians (FACEP)
a. 1999-present**

2. Fellow – Academy of Emergency Medical Services (FAEMS)
 - a. 2021-present

Honors and Awards:

2021-2022 ACEP Outstanding Speaker of the Year
National award designed to recognize a single faculty member who has consistently demonstrated teaching excellence through performance, versatility, and dependability during ACEP education meetings throughout the year

2022 NAEMSP President's Award – For tireless leadership and inspiring scholarship as an editor of the 2022 NAEMSP Compendium of Airway Management Position Statements and Resource Documents

2020-2021 Outstanding Resident Teaching Award
Department of Obstetrics, Gynecology, and Reproductive Services, University of California, San Francisco

2020 ACEP National Emergency Medicine Faculty Teaching Award

2017-2018 Quarterly Resident Bedside Teaching Award
UCSF Department of Emergency Medicine

Outstanding Contributions - Best Authors in Adult Emergency Medicine
UpToDate – Wolters Kluwer
March, 2017

2016 Career Service Award
Denver Health and Hospital Association
Medical Staff Awards
September 21st, 2016

The Peter Rosen Leadership Award
Presented by the 2016 Emergency Medicine Residency at Denver Health for Outstanding Departmental Leadership
June 27th, 2016

2016 Financial Vitality Pillar Award
For largest increase in charges and revenue while
maintaining same cost
June 9th, 2016

Best Attending Lecture of the Year
In recognition of outstanding educational performance
Denver Health Paramedic School Class of 2016

Meritorious Service Award
Presented by the Colorado Chapter of the American
College of Emergency Physicians for Achievements that
have Enhanced Colorado's Health Care System and the
Profession of Emergency Medicine in Colorado.
January 20th, 2015

2015 Patient Safety and Quality Pillar Award
For meticulous, high-quality, and thoughtful design and
implementation of Denver Health's Ebola Preparedness
Plan
June, 2015

The Corey M. Slovis Award for Excellence in
Education. U.S. Metropolitan Municipalities EMS
Medical Directors Consortium, February, 2015

Positively Collaborative Award for outstanding
collaboration towards the improvement of Colorado's
trauma system. Trauma Program, Colorado
Department of Public Health and Environment,
January, 2012

The Vincent J. Markovchick Program Director's
Award 2011

Distinctive Service Award – Denver Paramedic Division
2010

Chief Executive Officer Special Commendation Award for expert medical leadership of Denver's 911 system, 2009

Mayor's Award of Appreciation for assistance and aid to Hurricane Katrina evacuees. 2005

Ernest E. Moore Award for Outstanding Contributions in Trauma Care, 2000

Outstanding Senior Resident, 1996

Chief Resident, Emergency Medicine Residency, 1995-1996

Membership in professional organizations:

1. **American College of Emergency Physicians (ACEP), 1994-present**
 - a. **Fellow, 1999-present**
 - b. **California ACEP, 2016-present**
 - c. **Colorado ACEP, 1993-1996, 1998-2016**
 - d. **Michigan ACEP, 1996-1998**
2. **American Medical Association (AMA), 1993-2000, 2006-present**
3. **National Association of EMS Physicians (NAEMSP), 2002-present**
 - a. **FAEMS designation – 2021 to present**
4. **Society for Academic Emergency Medicine (SAEM), 1995-2000, 2008-present**
5. **Emergency Medicine Residents Association (EMRA), 1992-1997**

Major Committee, Teaching, and Service Responsibilities:

1. Associate Editor, Trauma and EMS sections. EMRAP/CorePendium
Emergency Medicine Textbook
2. COVID Vaccine Speakers Group member – delivered talks addressing concerns and questions from vulnerable populations on the COVID-19 vaccine across the country (virtually)
3. UCSF Ad Hoc Committee for Faculty Misconduct Investigations, Standing Panel. 2019 – 2025
4. Chair, Faculty Misconduct Investigation Committee
 - a. August, 2022 – February, 2023
5. Admissions Interview Committee – UCSF School of Medicine, Office of Admissions, 2018 – present
6. American Board of Emergency Medicine (ABEM) Oral Board Examiner

- October 8-11, 2016
 - October 14-17, 2017
 - October 13-16, 2018
 - October 5-8, 2019
 - December 15-18, 2020
 - April 21-24, 2021
 - December 8-11, 2021
 - May 18-21, 2022
 - December 7-9, 2022
7. San Francisco Pride Parade - Medical Coverage (with San Francisco Fire Department). 2019, 2022
 8. Medical Executive Committee, Zuckerberg San Francisco General Hospital and Trauma Center. 2016-present
 9. ZSFG CPG Board of Directors. 2016-present
 10. UCSF Department of Emergency Medicine Incentive Review Committee. 2016 – present
 11. Zuckerberg San Francisco General Hospital and Trauma Center Trauma Peer Review Committee. 2016-present
 12. Board of Directors, American College of Emergency Physicians – Colorado Chapter, 2007-2011
 13. Conference Director, Annual Rocky Mountain Conference in Trauma and Emergency Medicine, 2003 – 2016
 14. American Board of Emergency Medicine (ABEM) Oral Board Examiner, 2011 - present
 15. Course Director, Introduction to Traumatic Emergencies, (SURG 6623) University of Colorado School of Medicine, 1999
 - a. A course for second year medical students that introduces the student to selected traumatic emergencies and their management
 16. Course Director, Prehospital Medicine (SURG 6626), University of Colorado at Denver School of Medicine, 2005-2016
 - a. A course for first and second year medical students that introduces them to prehospital medicine and includes clinical time riding on an ambulance
 17. Course Director, Flight Medicine (SURG 6628), University of Colorado at Denver School of Medicine, 2009-2016
 - a. A course for second year medical students (SURG 6626 is a pre-requisite) that introduces the student to flight medicine and includes clinical time riding in a helicopter as well as fixed wing airplane transport
 18. Instructor, Introduction to Traumatic Emergencies, (SURG 6623) University of Colorado School of Medicine, 1999-2016
 19. Lecturer, Injury Epidemiology and Control (PRMD 6637), University of Colorado School of Medicine, 2003
 20. Instructor, Emergency Medicine at Denver Health Medical Center (SURG 8005), University of Colorado School of Medicine, 1998-2016

21. Instructor, Integrated Clinicians Course (ICC) 8005: Preparing for Internship: Reading and Understanding EKGs
22. Instructor, Integrated Clinicians Course (ICC) IDPT 7003: Management of Trauma, University of Colorado School of Medicine, 2011
23. Instructor, Integrated Clinicians Course (ICC) IDPT 7004: Management of Trauma, University of Colorado School of Medicine, 2010. Lecturer and small group leader
24. Instructor, Integrated Clinicians Course (ICC) IDPT 7004: Management of Trauma, University of Colorado School of Medicine, 2009. Lecturer and small group leader
25. Member, Medical Staff Executive Committee, 2009-present
26. Member, Denver Health Executive Committee for Patient Safety and Quality, 2006-2016
27. Council Member, Colorado's Mile High Regional Emergency and Trauma Advisory Council (RETAC), Denver County appointed representative, 2000-2016
28. Committee chair, Destination and Diversion committee, Mile High RETAC 2002-2016
29. Member, State EMS Formulary Task Force, 2006 – 2009
30. Member, Pediatric Trauma Committee, 2006-present
31. Member, Rocky Mountain Center for Medical Response (RMCMR), 2002-2016
32. Member, Colorado State Advisory Council on Emergency Medical Services, 1998-2000
33. Ute Mountain Ute EMS Program medical director, 1994-1996
34. Steering Committee member, Denver Health Residency in Emergency Medicine, 1998-2016
35. Denver Health Residency in Emergency Medicine Compliance Committee, 2006-2014
36. Pharmacy and Therapeutics Committee member, Denver Health Medical Center, 1998-2006
37. EMS Education committee member, Denver Health Medical Center, 1998-2016
38. Safety Committee member, Denver Health Medical Center, 1998-2001
39. Residency Advisory Committee, Denver Health Medical Center Residency in Emergency Medicine, 1998-2016
40. Moderator, Case Presentations, Rocky Mountain Critical Care Transport Conference, May, 2003
41. Instructor, Difficult Airway Lab, Rocky Mountain Critical Care Transport Conference, May, 2003
42. Trauma Center Site Surveyor, State of Florida Department of Health and Rehabilitative Services, Office of Emergency Medical Services, 2003-present
 - a. Trauma site review – 10/23 – 10/25, 2019
43. Member, Denver EMS Council, 1998-2016
44. Member, Denver Metro Physician Advisors, 1999-2016

45. Medical Expert and Faculty, Boulder Trial Academy, International Association of Defense Counsel, 1998-2002
46. Member, Medical Advisory Group (MAG), to the Colorado State EMS Director, 2003-2008
47. Transfusion Committee member, St. Joseph Mercy Hospital, Ann Arbor, Michigan. 1996-1998

Editorial Positions

1. Section Editor, Trauma, UpToDate, 2009 - present
2. Section Editor, Abstracts
The Journal of Emergency Medicine, 1999-2002
3. Review Editor, The Journal of Emergency Medicine, 1999-2008
4. Review Editor, Western Journal of Emergency Medicine, 2008 – 2016
5. Manuscript reviewer, JAMA Network Open, 2019-present
6. Manuscript reviewer, Academic Emergency Medicine, 2003 – present
7. Manuscript reviewer, Critical Care, 2008-present
8. Manuscript reviewer, Patient Safety in Surgery, 2009-present
9. Guest Editor, EM International, Prehospital Care

Publications:

Peer Reviewed Journal Articles

1. Shapiro M, Dechert, **Colwell C**, Bartlett R, Rodriguez: Geriatric Trauma: Aggressive Intensive Care Management is Justified. American Surgeon 1994;60(9):695-8
2. **Colwell C**, Pons PT, Blanchet J, Mangino C: Claims Against a Paramedic Ambulance Service: A Ten Year Experience. J Emerg Med 1999, 17(6):999-1002
3. Apfelbaum J, **Colwell C**, Roe E: Precipitous Breech Delivery of Twins: A Case Report. Prehospital Emerg Care 2000; 4(1):78-81
4. Gnadinger CA, **Colwell C**, Knaut AL: Scuba Diving-Induced Pulmonary Edema in a Swimming Pool. J Emerg Med 2001; 21(4):419-421
5. Houry D, **Colwell C**, Ott C: Abdominal Pain in a Child after Blunt Abdominal Trauma: An Unusual Injury. J Emerg Med 2001; 21(3):239-241
6. Barton E, Ramos J, **Colwell C**, Benson J, Bailey J, Dunn W: Intranasal Administration of Naloxone by Paramedics. Prehosp Emerg Care 2002; 6:54-8

7. **Colwell C**, Pons PT, Pi R: Complaints Against an EMS System. J Emerg Med 2003;25(4):403-408
8. **Colwell C**, McVaney K, Haukoos J, Wiebe D, Gravitz C, Dunn W, Bryan T: An Evaluation of Out-of-Hospital Advanced Airway Management in an Urban Setting. Acad Emerg Med 2005; 12(5):417-22
9. McVaney KE, Macht M, **Colwell CB**, Pons PT: Treatment of Suspected Cardiac Ischemia with Aspirin by Paramedics in an Urban Emergency Medical Services System. Prehospital Emerg Care 2005, 9(3):282-284
10. Barton E, **Colwell CB**, Wolfe TR, Fosnocht D, Gravitz C, Bryan T, Dunn W, Benson J, Bailey J: The Efficacy of Intranasal Naloxone as a Needleless Alternative for Treatment of Opiate Overdose in the Prehospital Setting. J Emerg Med 2005;29(3):265-71
11. Levine SD, **Colwell CB**, Pons PT, Gravitz C, Haukoos JS, McVaney KE: How Well do Paramedics Predict Admission to the Hospital? A Prospective Study. J Emerg Med 2006;31(1):1-5
12. **Colwell CB**: Case Studies in Infectious Disease: Travel-Related Infections. Emerg Med 2006;38(10):35-43
13. Bonnett CJ, Peery BN, Cantril SV, Pons PT, Haukoos JS, McVaney KE, **Colwell CB**: Surge capacity: a proposed conceptual framework. Am J Emerg Med 2007;25:297-306.
14. **Colwell C**. Initial evaluation and management of shock in adult trauma. In: UpToDate, Basow DS (Ed), UpToDate, Waltham, MA, 2007 - present
15. Bonnett CJ, **Colwell CB**, Schock T, McVaney KE, Depass C: Task Force St. Bernard: Operational Issues and Medical Management of a National Guard Disaster Response. Prehospital and Disaster Medicine 2007;22(5):440-447
16. **Colwell CB**: Heat Illness. Emerg Med 2008; 40(6): 33-39
17. **Colwell CB**, Cusick JC, Hawkes AP and the Denver Metro Airway Study Group: A prospective study of prehospital airway management in an urban EMS system. Prehosp Emerg Care 2009; 13:304-310
18. **Colwell CB**, Mehler P, Harper J, Cassell L, Vazquez J, Sabel A: Measuring quality in the prehospital care of chest pain patients. Prehospital Emerg Care 2009;13:237-240
19. Kashuk JL, Halperin P, Caspi G, **Colwell CB**, Moore EE: Bomb explosions in acts of terrorism: Evil creativity challenges our trauma systems. J Am Coll Surg 2009; 209(1):134-140
20. Stone SC, Abbott J, McClung CD, **Colwell CB**, Eckstein M, Lowenstein SR: Paramedic knowledge, attitudes, and training in end-of-life care. Prehospital Disaster Medicine 24(6):529-34, Nov-Dec 2009.
21. Gaither JB, Matheson J, Eberhardt A, **Colwell CB**: Tongue engorgement associated with prolonged use of the King-LT laryngeal tube device. Ann Emerg Med, 2009. Ann Emerg Med 2010; 55(4):367-9.
22. Bookman SJ, Eberhardt AM, Gaither JB, **Colwell CB**: Hospital Group Preparation for the 2008 Democratic National Convention. Journal of Homeland Security and Emergency Management 2010; Vol. 7: Iss. 1, Article 16.

23. Haukoos JS, Witt G, Gravitz C, Dean J, Jackson D, Candlin T, Vellman P, Riccio J, Heard K, Kazatomi T, Luyten D, Pineda G, Gunther J, Biltoft J, **Colwell CB**. Out-of-hospital cardiac arrest in Denver, Colorado: Epidemiology and outcomes. Acad Emerg Med 2010; 17(4):391-8.
24. Haukoos JS, Byyny RL, Erickson C, Paulson S, Hopkins E, Sasson C, Bender B, Gravitz C, Vogel JA, **Colwell CB**, Moore EE. Validation and refinement of a rule to predict emergency intervention in adult trauma patients. Ann Emerg Med 2011;58:164-171
25. **Colwell CB**, Eberhardt A. Less Lethal Force. Emergency Medicine Reports 2011, 32(18):1-12
26. Soriya G, McVaney KE, Liao MM, Haukoos JS, Byyny RL, Gravitz C, **Colwell CB**. Safety of prehospital intravenous fentanyl for adult trauma patients. J Trauma Acute Care Surg 2012;72(3):755-59
27. Gudnik MR, Sasson C, Rea TD, Sayre MR, Zhang J, Bobrow BJ, Spaite DW, McNally B, Denninghoff K, Stolz U, Levy M, Barger J, Dunford JV, Sporer K, Salvucci A, Ross D, **Colwell CB**, Turnbull D, Rosenbaum R, Schrank K, Waterman M, Dukes R, Lewis M, Fowler R, Lloyd J, Yancey A, Grubbs E, Lloyd J, Morris J, Boyle S, Johnson T, Wizner C, White M, Braithwaite S, Dyer S, Setnik G, Hassett B, Santor J, Swor B, Chassee T, Lick C, Parrish M, Radde D, Mahoney B, Todd D, Salomone J, Ossman E, Myers B, Garvey L, Camerson J, Slattery D, Ryan J, McMullan J, Keseg D, Leaming J, Sherwood BK, Luther J, Slovis C, Hinchey P, Harrington M, Griswell J, Beeson J, Perse D, Gamber M, Ornato J. Increasing hospital volume is not associated with improved survival in out of hospital cardiac arrest of cardiac etiology. Resuscitation 2012; 83(7):862-8
28. Mascolo M, Trent S, **Colwell CB**, Mehler PS. What the Emergency Department needs to know when caring for your patients with eating disorders. Int J Eat Disord 2012;45(8):977-81
29. **Colwell CB**, Bookman S, Johnston J, Roodberg K, Eberhardt AM, McVaney KE, Kashuk J, Moore EE. Medical Preparation for the 2008 Democratic National Convention. J Trauma Acute Care Surg 2012 Dec;73(6):1624-8
30. Trent SA, Moreira ME, **Colwell CB**, Mehler P. ED management of patients with eating disorders. Am J Emerg Med 2013 May;31(5):859-65
31. French AJ, **Colwell CB**. Atlas of Emergency Ultrasound. J Trauma Acute Care Surg 2013:75:919.
32. Cleveland N, **Colwell C**, Douglass E, Hopkins E, Haukoos JS. Motor Vehicle Crash Severity Estimations by Physicians and Prehospital Personnel. Prehosp Emerg Care 2014;18(3):402-7
33. Macht M, Mull AC, McVaney KE, Caruso EH, Johnston JB, Gaither JB, Shupp AM, Marquez KD, Haukoos JS, **Colwell CB**. Comparison of Droperidol and Halperidol for use by paramedics: Assessment of safety and effectiveness. Prehosp Emerg Care 2014;18(3):375-80
34. Nassel AF, Root ED, Haukoos JS, McVaney K, **Colwell C**, Robinson J, Eigel B, Magid DJ, Sasson C. Multiple cluster analysis for the identification of high-risk census tracts for out-of-hospital cardiac arrest (OHCA) in Denver, Colorado. Resuscitation 2014;85:1667-73

35. Vogel JA, Seleno N, Hopkins E, **Colwell CB**, Gravitz C, Haukoos JS. Denver Emergency Department Trauma Organ Failure Score outperforms traditional methods of risk stratification in trauma. Am J Emerg Med 2015;33(10):1440-4
36. Vogel JA, Newgard CD, Holmes JF, Diercks DB, Arens AM, Boatright DH, Bueso A, Gaona SD, Gee KZ, Nelson A, Voros JJ, Moore EE, **Colwell CB**, Haukoos JS; Western Emergency Services Translational Research Network. Validation of the Denver Emergency Department Trauma Organ Failure Score to Predict Post-Injury Multiple Organ Failure. J Am Coll Surg 2016;222(1):73-82
37. Joseph D, Vogel JA, Smith CS, Barrett W, Bryskiewicz G, Eberhardt A, Edwards D, Rappaport L, **Colwell CB**, McVaney KE. Alcohol as a Factor in 911 Calls in Denver. Prehosp Emerg Care 2018, 22(4):427-35
38. Hsia RY, Huang D, Mann NC, **Colwell C**, Mercer MP, Dai M, Niedzwiecki MJ. A US National Study of the Association Between Income and Ambulance - doi:10.1001/jamanetworkopen.2018.5202
39. Matthay ZA, Kornblith AE, Matthay EC, Sedaghati M, Peterson S, Boeck M, Bongiovanni T, Campbell A, Chalwell L, **Colwell C**, Farrell M, Kim WC, Knudson MM, Mackersie R, Li L, Nunez-Garcia B, Langness S, Plevin RE, Sammann A, Tesoriero R, Stein D, Kornblith LZ. The DISTANCE Study: Determining the Impact of Social Distancing on Trauma Epidemiology During COVID-19 Epidemic-An Interrupted Time-Series Analysis. J Trauma and Acute Care Surg 2020; Nov 24. Doi: 10.1097/TA.0000000000003044. Online ahead of print
40. Bains G, Breyre A, Seymour R, Montoy JC, Brown J, Mercer M, **Colwell C**. Centralized Ambulance Destination Determination: A Retrospective Data Analysis to Determine Impact on EMS System Distribution, Surge Events, and Diversion Status. West J Emerg Med 2021, 22(6):1311-16. DOI: 10.5811/westjem.2021.8.53198
41. Braithwaite S, Stephens C, Remick K, Barrett W, Guyette FX, Levy M, **Colwell CB**. Prehospital Trauma Airway Management: An NAEMSP Position Statement and Resource Document. Prehosp Emerg Care 2022; 26(Sup1):64-71

Invited Articles, Book Chapters, and Editorials

1. **Colwell C**, Harken A: *Cardiac Arrhythmias*. In: Markovchick V, Pons P(eds) Emergency Medicine Secrets. Hanley & Belfus, Inc., Philadelphia, PA; 2nd Edition, 1999, pp. 119-123
2. Murphy P, **Colwell C**: Prehospital Management of Epiglottitis. EMS 2000; 29(1):41-9
3. Murphy P, **Colwell C**: Prehospital Management of Neck Trauma. EMS 2000; 29(5):53-71
4. Murphy P, **Colwell C**: Heatwave: Prehospital Management of Heat Related Conditions. EMS 2000; 29(6):33-49

5. Murphy P, Colwell C: *Prehospital Management of Diabetes*. EMS 2000; 29(10):78-85
6. Murphy P, Colwell C, Bryan T: *Noncardiac Chest Pain*. EMS 2001; 30(4):66-71
7. Murphy P, Colwell C: *Communication Breakdown: When Medic and Medical Control Don't Agree*. Cover Story, EMS 2001 30(5):61-2
8. Murphy P, Colwell C, Linder G: *Assessment Clues*. EMS 2001; 30(7):45-8
9. Colwell C, Murphy P, Bryan T: *Mechanism of Injury: An Overview* Cover Story, EMS 2003; 32(5):52-64
10. Colwell C, Harken A: *Cardiac Arrhythmias*. In: Markovchick V, Pons P(eds) *Emergency Medicine Secrets*. Hanley & Belfus, Inc., Philadelphia, PA; 3rd Edition, 2003, pp. 140-143
11. Kendall J, Colwell C: *Pericarditis and Myocarditis* In: Markovchick V, Pons P (eds) *Emergency Medicine Secrets*. Hanley & Belfus, Inc., Philadelphia, PA; 3rd Edition, 2003, pp. 149-154
12. Colwell CB, Murphy P, Bryan T. *Prehospital Management of the Pregnant Patient*. EMS 2004; 33(3):59-67.
13. Colwell CB, Murphy P, Bryan T. *Pulseless Electrical Activity*. EMS 2004; 33(9):63-8.
14. Colwell CB, Murphy P, Bryan T, Nelson S. *Psychological Disorders: A General Overview*. EMS 2004;33(11):74-83.
15. Colwell C: *Traumatic Shock* In: Harwood-Nuss A, Wolfson A (eds) *The Clinical Practice of Emergency Medicine*. Lippincott Williams & Wilkins, Philadelphia, PA; 4th Edition, 2005; 907-12.
16. Colwell C, Murphy P, Bryan T. *Pediatric Potpourri: An Overview of Select Pediatric Conditions*. EMS 2005;34(7):50-58
17. Colwell C, Murphy P, Bryan T. *Uncompleted Suicide Attempts*. EMS 2005;34(11):73-86
18. Murphy P, Colwell CB, Pineda G, Bryan T: *Breaking Down Barriers: How EMS providers can communicate with autistic patients*. EMS 2006;35(4):84-89
19. Murphy P, Colwell CB, Pineda G, Bryan T: *Traumatic Amputations*. EMS 2006; 35(6):90-96
20. Colwell CB, Murphy P, Bryan T: *Geriatric Trauma*. EMS 2006;35(9):135-140
21. Colwell CB: *Cardiac Dysrhythmias, Pacemakers, and Implantable Defibrillators* In: Markovchick V, Pons P (eds) *Emergency Medicine Secrets*. Mosby Elsevier, Philadelphia, PA; 4th Edition, 2006: 194-204
22. Kendall JL, Colwell CB: *Pericarditis and Myocarditis* In: Markovchick V, Pons P (eds) *Emergency Medicine Secrets*. Mosby Elsevier, Philadelphia, PA; 4th Edition, 2006: 213-218
23. Colwell CB: *Disasters* In: Chapleau W, Pons P (eds) *Emergency Medical Technician*. Mosby JEMS Elsevier, St. Louis, MO, 2007:708-725
24. Colwell CB: *Hyperkalemia* In: Schaidler J, Hayden SR, Wolfe R, Barkin RM, Rosen P (eds): *Rosen and Barkin's 5-Minute Emergency Consult* Lippincott Williams & Wilkins, Philadelphia, PA; 3rd Edition, 2007: 550-551

25. **Colwell CB:** *High Altitude Illness* In: Schaidler J, Hayden SR, Wolfe R, Barkin RM, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Consult Lippincott Williams & Wilkins, Philadelphia, PA; 3rd Edition, 2007:522-523
26. **Colwell CB:** *Dialysis Complications* In: Schaidler J, Hayden SR, Wolfe R, Barkin RM, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Consult Lippincott Williams & Wilkins, Philadelphia, PA; 3rd Edition, 2007:310-311
27. **Colwell CB:** *Gastroenterology* In: Chapleau W, Burba AC, Pons PT, Page D (eds): The Paramedic McGraw-Hill, New York, NY; 2008:839-861
28. **Colwell CB:** *Lightning and Electrical Injuries* In: Adams JG (Ed): Emergency Medicine Elsevier, Philadelphia, PA, 2008;131:1451
29. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Cerebral hemorrhage. What EMS providers need to know about cerebral anatomy and common forms of cerebral hemorrhage.* EMS 2009; 38(5):46-55
30. **Colwell CB**, Johnston J, Schimpf B, Nieberlein D, Petre B, Bookman S, Robinson J, Jackamore S, Gaither J, Eberhardt A, Benson J, Crowl D. *The response and lessons learned from the crash at Denver International Airport.* JEMS 2009; 34(9):36-45.
31. Murphy P, **Colwell CB**, Pineda G, Bryan T. *Shortness of breath: A review of select conditions.* EMS 2009, 38(7):51-63.
32. **Colwell CB**, Moore EE: *Traumatic Shock* In: Wolfson AB (ed): Harwood-Nuss' Clinical Practice of Emergency Medicine Lippincott Williams & Wilkins, Philadelphia, PA, 5th Edition, 2009:142-148
33. **Colwell CB**, Markovchick V: *Radiation Injuries* In: Marx JA, Hockberger RS, Walls RM (eds): Rosen's Emergency Medicine: Concepts and Clinical Practice Mosby Elsevier Philadelphia, PA 7th Edition, 2009:1933-1941
34. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Burning issues: By understanding the pathophysiology of burns, providers can give patients their best chance at good outcomes.* EMS 2009, 38(10):83-90.
35. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Abdominal Pain: A review of select conditions.* EMS 2010, 39(1):68-74
36. Murphy P, **Colwell CB**, Pineda G, Bryan T: *A Shocking Call: Prehospital assessment and management of electrical injuries and lightning strikes.* EMS 2010, 39(2):46-53
37. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Shootings: What EMS providers need to know: the assessment and treatment of victims of gunshot wounds.* EMS 2010, 39(4):37-45
38. **Colwell CB:** *Managing the Acutely Agitated Patient.* EMS Innovations 2010 EMS 2010, 39(7):I-8-I-9
39. Soriya G, **Colwell CB:** *Basic Life Support.* In: Moore EE (ed): Encyclopedia of Intensive Care Medicine Springer, 1st Edition, 2010
40. Soriya G, **Colwell CB:** *Emergency Medical Services* In: Moore EE (ed): Encyclopedia of Intensive Care Medicine Springer, 1st Edition, 2010
41. Mull A, **Colwell CB:** *Prehospital Care* In: Moore EE (ed): Encyclopedia of Intensive Care Medicine Springer, 1st Edition, 2010
42. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Hemochromatosis.* EMS 2010; 39(10):53-57

43. **Colwell CB:** *Hyperkalemia* In: Schaidler JJ, Barkin RM, Hayden SR, Wolfe RE, Barkin AZ, Shayne P, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Medicine Consult Lippincott Williams & Wilkins, a Wolters Kluwer, PA 4th Edition, 2011: 552-553
44. **Colwell CB:** *High Altitude Illness* In: Schaidler JJ, Barkin RM, Hayden SR, Wolfe RE, Barkin AZ, Shayne P, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Medicine Consult Lippincott Williams & Wilkins, Wolters Kluwer, PA 4th Edition, 2011: 524-525
45. **Colwell CB:** *Dialysis Complications* In: Schaidler JJ, Barkin RM, Hayden SR, Wolfe RE, Barkin AZ, Shayne P, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Medicine Consult Lippincott Williams & Wilkins, a Wolters Kluwer, PA 4th Edition, 2011: 310-311
46. **Colwell CB, Mull AC:** *Cardiac Dysrhythmias, Pacemakers, and Implantable Defibrillators*. In: Markovchick VJ, Pons PT, Bakes KM (eds): Emergency Medicine Secrets Elsevier Mosby, St. Louis MO 5th Edition, 2011:208-218
47. Kendall JL, **Colwell CB:** *Pericarditis and Myocarditis* In: Markovchick VJ, Pons PT, Bakes KM (eds): Emergency Medicine Secrets Elsevier Mosby, St. Louis MO 5th Edition, 2011:229-234
48. **Colwell CB, Soriya G:** *Heat Illness* In: Markovchick VJ, Pons PT, Bakes KM (eds): Emergency Medicine Secrets Elsevier Mosby, St. Louis MO 5th Edition, 2011:407-410
49. Murphy P, **Colwell CB, Pineda G:** *Smoke Inhalation*. EMS World 2011; May issue
50. Eberhardt A, **Colwell CB:** *Prehospital Care*. In: Legome E, Shockley LW (eds): Trauma: A Comprehensive Emergency Medicine Approach Cambridge University Press, New York, 2011:653-662
51. Crowl D, **Colwell CB, Mettera CJ:** *Double trouble: Don't get fooled when assessing the pregnant trauma patient*. JEMS 2011; Sept:52-59
52. Mehler PS, **Colwell CB, Stahel PF:** *A structured approach to improving patient safety: Lessons from a public safety-net system*. Patient Safety in Surgery 2011; 5:32 (1 December, 2011)
53. Murphy P, **Colwell CB, Pineda G:** *Understanding the Trauma Triad of Death*. EMS World 2012, 41(2):44-51
54. Thomas SH, Colwell CB, Deslandes J, Dyer S, Goodloe JM. Prehospital Care. Emerg Med International 2012, Article ID 965480
55. **Colwell CB.** *On-Line Medical Direction*. In: Pons PT, Markovchick VJ (eds): Prehospital Care: Pearls and Pitfalls. People's Medical Publishing House, Shelton, CT, 2012:79-82
56. **Colwell CB.** *Incident Management*. In: Pons PT, Markovchick VJ (eds): Prehospital Care: Pearls and Pitfalls. People's Medical Publishing House, Shelton, CT, 2012:137-45
57. **Colwell CB.** *Chest Pain*. In: Pons PT, Markovchick VJ (eds): Prehospital Care: Pearls and Pitfalls. People's Medical Publishing House, Shelton, CT, 2012:239-44

58. Prehospital Care. Emergency Medicine International Special Edition. Thomas SH, Colwell C, Deslandes JC, Dyer S, Goodloe JM, Guest Editors. Hindawi Publishing Corp, 2012
59. Thomas SH, Colwell C, Deslandes JC, Dyer S, Goodloe JM. Prehospital Care. Emergency Medicine International 2012; article ID 965480
60. Colwell CB. *Lightning and Electrical Injuries*. In: Adams (ed): Emergency Medicine: Clinical Essentials Elsevier Saunders, Philadelphia, PA 2nd Edition 2013:1148-52
61. Colwell CB. Book review: *An Introduction to Clinical Emergency Medicine, 2nd ed.* In: J Trauma and Acute Care Surgery 2013 Jan;74(1):344
62. Colwell CB. *Radiation Injuries* In: Marx (ed): Rosen's Emergency Medicine: Concepts and Clinical Practice Elsevier Saunders, Philadelphia, PA 8th Edition, 2014:1945-53
63. Murphy P, Colwell C, Pineda G. *All You Need to Know About Bariatrics*. EMS World 2014, 43(3):26-35
64. Colwell CB, Moore EE. *Traumatic Shock*. In: Wolfson AB (ed): Harwood Nuss' Clinical Practice of Emergency Medicine Lippincott Williams & Wilkins, Philadelphia, PA, 6th Edition, 2014:137-142
65. Colwell CB. *High Altitude Illness* In: Schaidler et al (ed): Rosen and Barkin's 5- Minute Emergency Medicine Consult. Wolters Kluwer, Philadelphia, PA 5th Edition, 2015:534-5
66. Colwell CB. *Dialysis Complications* In: Schaidler et al (ed): Rosen and Barkin's 5- Minute Emergency Medicine Consult. Wolters Kluwer, Philadelphia, PA 5th Edition, 2015: 312-3
67. Colwell CB. *Hyperkalemia* In: Schaidler et al (ed): Rosen and Barkin's 5- Minute Emergency Medicine Consult. Wolters Kluwer, Philadelphia, PA 5th Edition, 2015: 562-3
68. Colwell CB. *Refusal in the Field: When can an uncooperative patient refuse care and transport?* Journal of Emergency Medical Services (JEMS) July, 2016
69. Colwell CB, Moore E. *Initial evaluation and management of abdominal gunshot wounds in adults*. In: UpToDate, Post TW (Ed), UpToDate, Waltham, MA. (Accessed July 12, 2019 – 10,156 views in 2018)
70. Colwell CB, Moore E. *Initial evaluation and management of abdominal stab wounds in adults*. In: UpToDate, Post TW (Ed), UpToDate, Waltham, MA. (Accessed July 12, 2019 – 10,383 views in 2018)
71. Colwell CB. *Initial evaluation and management of shock in adult trauma and management of non-hemorrhagic shock*. In: UpToDate, Post TW (Ed), UpToDate, Waltham, MA. (Accessed July 12, 2019 – 17,317 views in 2018)
72. Colwell CB. *Geriatric trauma: Initial evaluation and management*. In: UpToDate, Post TW (Ed), UpToDate, Waltham, MA. (Revision – July, 2019. 17,777 views in 2018)
73. Colwell CB. *Supply, Demand, and Crisis: Emergency Department Diversion of Ambulances in San Francisco*. San Francisco Medicine (Journal of The San Francisco Medical Society), 90(3):15-17, April, 2017

74. **Colwell CB**, Fox CJ. *Abdominal Aortic Aneurysm*. In: Rosen's Emergency Medicine – Concepts and Clinical Practice. Elsevier, Philadelphia, PA. 9th Edition, 2018:1027-35.
75. **Colwell CB**. *Imaging in trauma*. Audio Digest Emergency Medicine 35:16 (August 21), 2018
76. **Colwell CB**. *Geriatric trauma*. Audio Digest Emergency Medicine 35:16 (August 21), 2018
77. Mason J, **Colwell CB**, Grock A. *Agitation Crisis Control*. Ann Emerg Med 2018;72:371-3
78. Mason J, Mallon B, **Colwell CB**. *Restraining the Agitated Patient*. EM:RAP October 2018, Volume 18, Issue 10.
79. **Colwell CB**. *Initial management of moderate to severe hemorrhage in the adult trauma patient*. In UpToDate. Post TW (Ed), UpToDate, Waltham, MA. July 12th, 2019. (74,419 views in 2019)
80. **Colwell CB**. *Media Communication*. In: Communication in Emergency Medicine. Moreira ME and French AJ (Eds). Oxford University Press, New York, NY, 2019: 259-267
81. **Colwell CB**. *Initial evaluation and management of abdominal gunshot wounds in adults*. In UpToDate. Post TW (Ed), UpToDate, Waltham, MA. Updated – January 7th, 2020. (12,310 views in 2019)
82. **Colwell CB**, Moore EE. *Initial evaluation and management of abdominal stab wounds in adults*. In UpToDate. Post TW (ED), UpToDate, Waltham, MA. Updated August 10th, 2020. (12,382 views in 2019)
83. Maloney LM, Hoffman J, Pepe PE, **Colwell CB**, Antevy PM, Crowe RP, Doerries BL. *Minding the Mind of EMS Part I: Recognizing that it's OK for the best of us to not always feel ok*. EMS World, November, 2020
84. **Colwell CB**. *Disasters and Mass Casualty Incidents*. In Chapleau, Chapman, Hunter, Pons, Stuke (Eds): Prehospital Medicine: Principles, Pearls & Pitfalls. International PreHospital Medicine Institute (IPHMI), 2020: 180-188
85. **Colwell CB**, Moore EE. *Traumatic Shock*. In: Wolfson AB (Ed): Harwood-Nuss' Clinical Practice of Emergency Medicine. Wolters Kluwer, Philadelphia, PA, 2021: pp. 140-146
86. **Colwell CB**. *Cardiac Dysrhythmias, Pacemakers, and Implantable Defibrillators*. In: Bakes KM, Buchanan JA, Moreira ME, Byyny R, Pons PT (Eds): Emergency Medicine Secrets, 7th Edition. Elsevier. Philadelphia, PA, 2022: pp. 181-189.
87. **Colwell CB**. *Pericarditis and Myocarditis*. In: Bakes KM, Buchanan JA, Moreira ME, Byyny R, Pons PT (Eds): Emergency Medicine Secrets, 7th Edition. Elsevier. Philadelphia, PA, 2022: pp. 199-203.
88. **Colwell CB**. *Heat Illness*. In: Bakes KM, Buchanan JA, Moreira ME, Byyny R, Pons PT (Eds): Emergency Medicine Secrets, 7th Edition. Elsevier. Philadelphia, PA, 2022: pp. 338-341.
89. **Colwell CB**. *Disaster Management*. In: Bakes KM, Buchanan JA, Moreira ME, Byyny R, Pons PT (Eds): Emergency Medicine Secrets, 7th Edition. Elsevier. Philadelphia, PA, 2022: pp 586-591.

90. Maloney LM, Hoffman J, Pepe PE, **Colwell CB**, Antevy PM, Crowe RP, Doerries BL, Anderson SH, Schneider SM: *Minding the Mind of EMS Part II: Here's How to Help Employees' Mental Well-Being*. EMS World, September, 2021.
91. **Colwell CB**. *Initial evaluation and management of abdominal gunshot wounds in adults*. In UpToDate. Post TW (Ed), UpToDate, Waltham, MA. Updated – October 12th, 2021. (12,800 views in 2020)
92. Murphy P, **Colwell C**, Pineda G, Wortham C, Nelson S. *EMS Telemedicine: Watch the Details*. Healthcare Business Today, February 2nd, 2022.
93. **Colwell CB**. *My experience treating victims of mass shootings is no longer unique*. Op-Ed, MedPage Today, June 1st, 2022
94. **Colwell, C**. *Columbine should have been an isolated event. It was just a beginning*. Opinion – Policy, Scientific American, June 22nd, 2022.
95. **Colwell, C**. *Abdominal Aortic Aneurysm* In: Walls et al (eds): Rosen's Emergency Medicine: Concepts and Clinical Practice, 10th Edition. Elsevier, Philadelphia PA, 2023
96. **Colwell, C**. *Initial management of moderate to severe hemorrhage in the adult trauma patient*. In UpToDate. Post TW (Ed), UpToDate, Waltham, MA. Updated – August, 2022. Over 51,000 views in 2021
97. **Colwell, C**. *Initial evaluation and management of abdominal stab wounds in adults*. In UpToDate. Post TW (Ed), UpToDate, Waltham, MA. Updated – August, 2022. Over 15,000 views in 2021
98. **Colwell, C**. *Approach to shock in the adult trauma patient*. In UpToDate. Post TW (Ed), UpToDate, Waltham, MA. Updated September, 2022. Over 10,800 views in 2021
- 99.

Letters to the Editor

1. **Colwell C**, Markovchick V, Pons P: **Drug Concern** J. Emerg. Med. Services 2000;25:10
2. Abboud P, **Colwell C**: **Critically reappraising the literature-driven practice of analgesia administration for acute abdominal pain in the emergency room prior to surgical evaluation**. Am J Surg, 2004; Jul 188(1):102-3, Author reply 103-4
3. **Colwell C**, McVaney K, Haukoos J: Reply to: **Out-of-hospital Endotracheal Intubation-It's Time to Stop Pretending that Problems Don't Exist**. Acad Emerg Med 2005;12(12):1245-6
4. **Colwell C**: **Reply to: EMS Response to Columbine: Lessons Learned**. The Internet Journal of Rescue and Disaster Medicine 2006; Vol. 5, No. 2

Abstracts Presented

1. **Colwell C**, Wolfe R, Moore E, Cairns C: **Differences in Hemodynamic Data Between Geriatric and Younger Adult Trauma Patients**. Poster

- Presentation; 21st Annual Rocky Mountain Conference on Emergency Medicine and Nursing, Jan. 30th, 1995
2. **Colwell C, Wolfe R, Moore E, Cairns C: Differences in Hemodynamic Data Between Geriatric and Younger Adult Trauma Patients.** Presented as an oral presentation at the 25th Annual Meeting of the Society for Academic Emergency Medicine, Denver, Colorado, May, 1995.
 3. **Branney S, Colwell C, Aschenbrenner J, Pons P: Safety of Droperidol for Sedating Out-of-control ED Patients.** Presented at the Annual Meeting of the Society for Academic Emergency Medicine, Denver, Colorado, 1996. (Acad Emerg Med 1996; 3:527)
 4. **Barton E, Ramos J, Colwell C: Intranasal Administration of Naloxone by Paramedics: Could this be a better practice?** Presented at American College of Emergency Physicians (ACEP) Research Forum, October 2001. (Ann Emerg Med 2001; 38(4):Supplement p. S18)
 5. **Barton E, Colwell C, Ramos J: Intranasal Administration of Naloxone by Paramedics: Could this be a better practice?** Presented at The First Mediterranean Emergency Medicine Congress, Stressa Convention Center, Stressa, Italy, September 2001
 6. **Levine S, Colwell C, Pons P, Gravitz C, Haukoos J: How well do paramedics predict admission to the hospital?** Presented at AAEM Resident Research Competition, San Diego, California, February 2005
 7. **Colwell C, Mehler P, Sabel A, Harper J, Johnson L, Cassell L: Determining the Quality of Comprehensive Care for Non-Traumatic Chest Pain through a Composite Measure.** Presented at SAEM Western Regional Research Forum, Portland, Oregon, March, 2007.
 8. **Colwell C, Mehler P, Sabel A, Harper J, Johnson L, Cassell L. Analysis of Ambulance Response for Patients with Medical Chest Pain Based on the Severity of Potential Cardiac Symptoms.** Presented at SAEM Western Regional Research Forum, Portland, Oregon, March 2007.
 9. **Haukoos JA, Witt G, Colwell C. The Epidemiology of Out-of-Hospital Cardiac Arrest in Denver, Colorado. Results from Phase I of the Denver Cardiac Arrest Registry.** Presented at SAEM Annual Meeting, May 30th, 2008, Washington D.C.
 10. **Kashuk JL, Moore EE, Barnett C, Berlew CC, Colwell CB, Brody A, Johnson J, Biffi W, Sabel AL. Implementation of an in-hospital mass casualty incident (MCI) plan based upon the Israeli model: The challenges of shifting to the battlefield mentality in the civilian setting.** International Preparedness & Response to Emergencies & Disasters Conference. Tel –Aviv, Israel. January 11th, 2010.
 11. **Moore EE, Kashuk JL, Colwell CB, Barnett C, Burlew CC, Biffi WL, Johnson JL, Brody A, Sabel A. Live victim volunteers (LVV) enhance performance improvement for in-hospital mass casualty incident (MCI) drills: listen to the patient!** International Preparedness & Response to Emergencies and Disasters (IPRED). Tel-Aviv, Israel. January 12th, 2010.
 12. **Barnett C, Kashuk J, Moore EE, Colwell CB, Johnson JL, Biffi W, Burlew CC, Brody A, Sabel A. Notification and Communication: Critical initial**

- steps in mass casualty incident drills.** International Preparedness & Response to Emergencies and Disasters (IPRED). January 12th, 2010. Tel Aviv, Israel
13. **Colwell CB**, Moore EE, Kashuk J, Robinson J, Bookman S. **Lessons learned from the 2008 Democratic National Convention.** International Preparedness & Response to Emergencies and Disasters (IPRED). Tel-Aviv, Israel. January 12th, 2010.
 14. Soriya G, **McVaney K**, **Liao M**, **Haukoos J**, **Byyny R**, **Colwell C**. **Safety of pre-hospital single-dose fentanyl in adult trauma patients.** 13th Annual Western Regional Society for Academic Emergency Medicine Meeting, Sonoma, CA, 2010 (Oral).
 15. Soriya G, **McVaney K**, **Liao M**, **Haukoos J**, **Byyny R**, **Colwell C**. **Safety of pre-hospital single-dose fentanyl in adult trauma patients.** Society for Academic Emergency Medicine Annual Meeting, Scottsdale, Phoenix, AZ, 2010 (Poster).
 16. Sasson C, **Colwell C**, McNally B, Haukoos J. **“Associations Between Individual-level and Census Tract-level Characteristics and Performance of Bystander CPR Among Patients Who Experience Out-of-Hospital Cardiac Arrest.”** Oral Presentation American Heart Association November 2010.
 17. Sasson C, **Colwell C**, McNally B, Dunford J, Haukoos J. **“Using the Cardiac Arrest Registry to Enhance Survival to Examine Regional Variation in the Utilization of Automated External Defibrillators.”** Poster Presentation Resuscitation Science Symposium American Heart Association November 2010.
 18. Macht M, **Colwell CB**, Mull A, Johnston J B, Shupp A, Marquez KD, Gaither J, Haukoos J. **“Droperidol versus haloperidol for prehospital sedation of acutely agitated patients.”** Poster presentation at NAEMSP 2012 Annual Meeting, January 2012
 19. Nassel A, Haukoos J, McNally B, **Colwell CB**, Severyn F, Sasson C. **“Using Geographic Information Systems and Cluster Analysis to identify Neighborhoods with High Out of Hospital Cardiac Arrest Incidence and Low Bystander Cardiopulmonary Resuscitation Prevalence in Denver, Colorado.”** Oral Presentation, Society of Academic Emergency Medicine Annual Meeting, May 2012, Chicago, Illinois. Acad Emerg Med 2012 19(4) Suppl.1, #513:S271-272
 20. Vogel JA, Arens A, Johnson C, Ruygrok M, Smalley C, Byyny R, **Colwell CB**, Haukoos J. **“Prehospital and Emergency Department Intubation is Associated with Increased Mortality in Patients with Moderate to Severe Traumatic Brain Injury”.** Oral Presentation, Society of Academic Emergency Medicine Annual Meeting, May 2012, Chicago, Illinois. Acad Emerg Med 2012 19(4) Suppl. 1, #517:S273-S274
 21. Vogel JA, Sasson C, Hopkins E, **Colwell CB**, Haukoos J. **“Systems-Wide Cardiac Arrest Interventions Improve Neurologic Survival after Out-of-Hospital Cardiac Arrest”.** Moderated Poster Presentation, Society of Academic Emergency Medicine Annual Meeting, May 2012, Chicago, Illinois. Acad Emerg Med 2012 19(4) Suppl. 1, #615:S324

22. Muramoto S, **Colwell C**, Mehler P, Bakes K. “Cost analysis of a hospital-based violence intervention program: At-risk intervention and mentoring program (AIM).” Poster presentation at 25th Annual Interprofessional Research and EBP Symposium, March 2014, Denver, CO.
23. Huang D, Niedzwiecki M, Mercer M, **Colwell CB**, Mann C, Hsia R. “Poor Neighborhoods Have Slower Response and Transport Times”. Oral Presentation, National Association of EMS Physicians (NAEMSP) 2017 Annual Meeting, New Orleans, LA, January 26th, 2017.
24. Kanzaria HK, Mercer MP, To J, Costa B, Luna A, Bilinski J, Staconis D, Pitts M, Dentoni T, Williams T, Singh MK, **Colwell CB**, Marks JD. “Using Lean Methodology to Create a Care Pathway for Low Acuity Emergency Department Patients in a Safety-Net Hospital”. Poster presentation, Society for Academic Emergency Medicine (SAEM) 2017. Orlando, FL. May 17th, 2017.
25. Niedzwiecki M, Huang D, Mercer M, **Colwell CB**, Mann NC, Hsia RY. “Do Poor Neighborhoods Have Slower EMS Times? Oral presentation, Society for Academic Emergency Medicine (SAEM) 2017. Orlando, FL, May 18th, 2017.
26. Matthay ZA, Kornblith AE, Matthay EC, Sedaghati M, Peterson S, Boeck M, Bongiovanni T, Campbell A, Chalwell L, **Colwell C**, Farrell F, Kim WC, Knudson MM, Mackersie R, Li L, Nunez-Garcia B, Langness S, Plevin R, Sammann A, Tesoriero R, Stein D, Kornblith LZ. “The DISTANCE Study: Determining the Impact of Social Distancing on Trauma Epidemiology During the COVID-19 Epidemic-An Interrupted Time-Series Analysis” Oral presentation, plenary session, UCSF Research Symposium (Virtual), October 28th, 2020.
27. Kim WC, Gelb A, **Colwell C**, Johnson L, Stein D. “Whole-Body Computed Tomography for Trauma Reduces Emergency Department Length of Stay” Poster presentation, Trauma Quality Improvement Program (TQIP) 2020 Scientific Meeting and Training (Virtual), December 9th, 2020.
28. Bains G, Breyre A, Seymour R, Brown J, Mercer M, Montoy JC, **Colwell C**. “Centralized Ambulance Destination Determination impact on Surge events and Level loading”. Lightning rounds presentation, Society for Academic Emergency Medicine (SAEM) Virtual Meeting - #SAEM21. May 12th, 2021
29. Berger D, Wong-Castillo J, Mercer M, **Colwell C**, Brown J. Alternative Destinations: Characterization of EMS Patients Transported to a Field Care Clinic During COVID-19. Poster presentation, NAEMSP Research Forum, January 12th, 2022, San Diego, California
30. Curtis T, Boozapour O, Rebagliati D, **Colwell C**, Dailey M. Prehospital Chest Pain Management: Disparity Based on Homeless Status. Poster presentation, NAEMSP Research Forum, January 27th, 2023. Tampa, Florida

Invited Lectures, Presentations, and Visiting Professorships:

1. Hypertensive Emergencies
Interdepartmental Grand Rounds, University of Michigan
Ann Arbor, Michigan, May 1997

2. Pediatric Meningitis
Emergency Medicine Grand Rounds, University of Michigan
Ann Arbor, Michigan, October, 1997
3. Antibiotic Use in the Emergency Department
Attending Lecture in Emergency Medicine
Denver Health Medical Center, Denver, Colorado, October 1998
4. The Myth of EMS Response Times
26th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado, July 1999
5. Geriatric Trauma
26th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado, July 1999
6. Mass Casualty and Disaster Management: The Columbine Shootings
Multidisciplinary Trauma Conference, Denver Health Medical Center
Denver, Colorado, September 1999
7. Mass Casualty and Disaster Management: The Columbine Shootings
Northeast EMS Conference
Boston, Massachusetts, September 1999
8. Mass Casualty and Disaster Management: The Columbine Shootings
Keynote Address, Winnipeg EMS Conference
Winnipeg, Canada, October 1999
9. Mass Casualty and Disaster Management
Grand Rounds
Harvard Medical School and Harvard Affiliated Emergency Medicine
Residency
October 26th, 1999
Boston, Massachusetts
10. Mass Casualty and Disaster Management: The Columbine Shootings
Pediatric Emergency Care Conference
Grand Rapids, Michigan, March 2000
11. Geriatric Trauma
Trauma Care Appreciation Day
Denver, Colorado, May 2000
12. Mass Casualty and Disaster Management: The Columbine Shootings
Fifth International Conference on Pediatric Trauma
Beaver Creek, Colorado, June 2000
13. Complaints Against EMS
27th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Steamboat, Colorado, July 2000
14. Mass Casualty and Disaster Management: The Columbine Shootings
Sixth Annual Trauma Symposium, Cleveland Clinic Health System
Cleveland, Ohio, October 2000
15. Mass Casualty and Disaster Management: The Columbine Shootings
EMS TEST Conference
Columbus, Georgia, October 2000
16. Myocardial Infarction

- Colorado State EMS Conference 2000
Breckenridge, Colorado, October 2000
17. Hypothermia
Colorado State EMS Conference 2000
Breckenridge, Colorado, October 2000
18. Complaints Against EMS
Colorado State EMS Conference 2000
Breckenridge, Colorado, October 2000
19. Hypothermia
Rocky Mountain Winter Trauma and Emergency Medicine Conference
Copper Mountain, Colorado, January 2001
20. Mechanism of Injury
Grand Rounds, Longmont Community Hospital
Longmont, Colorado, March 2001
21. Stabilization of the Trauma Patient
Trauma Care Appreciation Day, Denver Health Medical Center
Denver, Colorado, April 2001
22. Mass Casualty and Disaster Management: The Columbine Shootings
El Paso EMS Conference
El Paso, Texas, September 2001
23. Mass Casualty and Disaster Management: The Columbine Shootings
Memorial Medical Center Trauma Conference
Johnstown, Pennsylvania, October 2001
24. Mechanism of Injury
Colorado State EMS Conference 2001
Breckenridge, Colorado, October 2001
25. Mass Casualty and Disaster Management: The Columbine Shootings
Massachusetts EMS Conference
Worcester, Massachusetts, December 2001
26. Mass Casualty and Disaster Management: The Columbine Shootings
Sierra-Cascade Trauma Society
Crested Butte, CO, February, 2002
27. Mass Casualty and Disaster Management: The Columbine Shootings
Emergency Medicine Grand Rounds, University of Massachusetts
Worcester, Massachusetts, March 2002
28. Mass Casualty and Disaster Management: The Columbine Shootings
Multidisciplinary Trauma Conference, Denver Health Medical Center
Denver, Colorado, March 2002
29. Mass Casualty and Disaster Management: The Columbine Shootings
Grand Rounds, Day Kimball Hospital
Putnam, Connecticut, May 2002
30. Mass Casualty and Disaster Management: The Columbine Shootings
Grand Rounds, Legacy Emanuel Hospital & Health Center
Portland, Oregon, June 2002
31. Mass Casualty and Disaster Management: The Columbine Shootings
Trauma Grand Rounds, Scripps Memorial Hospital

La Jolla, California, September 2002

32. High Altitude Illness
Annual Meeting, Sierra Cascade Trauma Society
Vail, Colorado, January 2003
33. ALS in Trauma: Should We Even Bother?
30th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado, August 2003
34. Hypothermia
30th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado, August 2003
35. Research in EMS
Grand Rounds, Denver Paramedic Division
Denver, Colorado September, 2003
36. High Altitude Illness
Colorado State EMS Conference 2003
Keystone, Colorado, October, 2003
37. Controversies in EMS
Colorado State EMS Conference 2003
Keystone, Colorado, October 2003
38. Hypothermia
Sierra Cascade Trauma Society, 2004
Aspen, Colorado, February 9, 2004
39. Current Research in Prehospital Care
Rocky Mountain Critical Care Transport Conference
Denver, Colorado, May 6th, 2004
40. Blood Substitutes in the Field
Clinical Conference on Pre-Hospital Emergency Care, 2004
Orlando, Florida, July 10th, 2004
41. Management of Potential C-spine Injuries: Clearance and Beyond.
31st Annual Rocky Mountain Trauma and Emergency Medicine Conference
Copper Mtn, Colorado. July 18th, 2004
41. Mass Casualty and Disaster Management: The Columbine Shootings.
Grand Rounds, North Colorado Medical Center
Greeley, Colorado. September 14, 2004
42. Research in EMS and Trauma
12th Annual EMS and Trauma Grand Rounds Conference
Aurora, Colorado. September 15, 2004
43. Blood Substitutes in the Field: The Prehospital Trials
2004 Colorado State EMS Conference
Keystone, Colorado. November 5th, 2004
44. Cadaver Anatomy Lab: Dissection and Procedure Review on a Human Cadaver. Preconference workshop, 2004 Colorado State EMS Conference
Keystone, Colorado. November 5th, 2004
45. Prehospital Management of Trauma
32nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 14th, 2005

46. Difficult Airway Lecture/Lab
32nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 15th, 2005
47. Bleeding Disorders
32nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 15th, 2005
48. Travel-Related Infectious Disease
ACEP Scientific Assembly 2005
September 28th, Washington D.C.
49. The Hot Joint
ACEP Scientific Assembly 2005
September 29th, Washington D.C.
50. Mass Casualty and Disaster Management
Trauma and Critical Care Conference
San Juan Regional Medical Center, Farmington, New Mexico
February 18th, 2006
51. Dialysis Related Emergencies
33rd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 14th, 2006
52. Show Me Where it Hurts: Pain Management in the Field
33rd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 15th, 2006
53. Environmental Emergencies
2006 Rocky Mountain Rural Trauma Symposium
September 14, 2006. Billings, Montana.
54. Drugs of Abuse
2006 Rocky Mountain Rural Trauma Symposium
September 15, 2006. Billings, Montana.
55. Cadaver Anatomy Lab: Dissection and Procedure Review on a Human Cadaver. Preconference workshop, 2006 Colorado State EMS Conference
Keystone, Colorado.
56. Dialysis-Related Emergencies
2006 Colorado State EMS Conference
November 3rd, 2006, Keystone, Colorado
57. High-Altitude Illness
2006 Colorado State EMS Conference
November 3rd, 2006. Keystone, Colorado
58. Drugs of Abuse
34th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 20th, 2007
59. Environmental Emergencies
34th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 22th, 2007
60. Ultrasound Use in the Acutely Traumatized Patient
Instructor, Ultrasound Workshop
34th Annual Rocky Mountain Trauma and Emergency Medicine Conference

- Breckenridge, Colorado. June 22th, 2007
61. Jigawatts: Back to the Future of Electrical Injuries
American College of Emergency Physicians - Scientific Assembly,
October 8-11, 2007. Seattle, Washington
 62. What's Hot, What's Not: Hypo to Hyperthermia, and All Things in Between
American College of Emergency Physicians - Scientific Assembly,
October 8-11, 2007. Seattle, Washington
 63. Environmental Emergencies
Colorado State EMS Conference, November 8th-11th, 2007
Keystone, Colorado
 64. Cadaver Anatomy Lab: Dissection and Procedure Review.
Colorado State EMS Conference 2007 – Pre-conference Workshop
Keystone, Colorado
 65. Drugs of Abuse
Colorado Society of Osteopathic Medicine: The Medical “Home
Improvements” Course. February 24th, 2008
Keystone, Colorado
 66. Initial Evaluation of the Trauma Patient
Colorado Society of Osteopathic Medicine: The Medical “Home
Improvements” Course. February 24th, 2008
Keystone, Colorado
 67. Geriatric Trauma
35th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 25th, 2008
Breckenridge, CO
 68. What's Hot, What's Not: Hypo to Hyperthermia and All Things in Between
ACEP Scientific Assembly 2008, October 28th
Chicago, IL
 69. Triage Out Debate: Efficient or Unethical?
ACEP Scientific Assembly 2008, October 28th
Chicago, IL
 70. Update in EMS Literature: What's Hot and What's Not
ACEP Scientific Assembly 2008, October 29th
Chicago, IL
 71. Cadaver Dissection Lab
2008 Colorado State EMS Conference, November 6th
Breckenridge, CO
 72. Geriatric Trauma
2008 Colorado State EMS Conference, November 7th
Breckenridge, CO
 73. Lessons Learned from the DNC
Colorado Front Range MMRS Hospital Response to a Mass Casualty
Incident, December 8th, 2008
Denver, CO
 74. Lessons Learned from the DNC
The EMS State of the Sciences Conference: A Gathering of Eagles 2009

- February 20th, 2009
Dallas, TX
75. Nightmare EMS Communications
The EMS State of the Sciences Conference: A Gathering of Eagles 2009
February 21st, 2009
Dallas, TX
76. Mass Casualty and Disaster Management
Trauma Perspectives 2009 (4/10/09)
Durango, CO
77. Airway Management and Pitfalls
Trauma Perspectives 2009 (4/10/09)
Durango, CO
78. Trauma Management
Integrated Clinicians Course (ICC) 7004
University of Colorado at Denver School of Medicine
May 5th, 2009
79. EMS Update, 2009
Grand Rounds, Beth Israel/Deaconess Department of Emergency Medicine
May 6th, 2009
80. EMS Update – Panel Discussion
36th Annual Trauma and Emergency Medicine Conference
June 18th 2009, Breckenridge, CO
81. Trauma in Pregnancy
36th Annual Trauma and Emergency Medicine Conference
June 19th 2009, Breckenridge, CO
82. Cadaver Lab: Anatomical Dissection
2009 Colorado State EMS Conference
November 5th, Keystone, Colorado
83. Trauma in Pregnancy
2009 Colorado State EMS Conference
November 6th, Keystone, Colorado
84. Update in EMS Literature: What's Hot and What's Not
2009 Colorado State EMS Conference
November 6th, Keystone, Colorado
85. Lessons Learned from the DNC
International Preparedness and Response to Emergencies and Disasters
(IPRED)
January 12th 2010
Tel Aviv, Israel
86. Geriatric Trauma
Second Annual BCFFA EMS Conference
January 23rd 2010, Boulder, Colorado
87. Pharmaceutical Restraints: A New Medication Approach to the Agitated Patient
The EMS State of the Sciences Conference: A Gathering of Eagles 2010
February 26th, 2010

Dallas, Tx

88. Transfer of the Rural Trauma Patient
Second Annual Western Colorado Trauma Conference
May 21st 2010, Delta, Colorado
89. Moderator, EMS Medical Director Panel: “Refusal of Care in the Prehospital Setting”
37th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 17th 2010, Breckenridge, Colorado
90. Critical Issues in Triage
37th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 18th 2010, Breckenridge, Colorado
91. Field Triage Guidelines: State of the Art or State of the Science?
ACEP Scientific Assembly 2010
September 28th, Las Vegas, Nevada
92. Less Lethal Force: An Emerging Problem in Prehospital Care
ACEP Scientific Assembly 2010
September 29th, Las Vegas, Nevada
93. Trauma Case Panel: Stump the Experts
Carlo Rosen (Moderator), Christopher B. Colwell MD, John Fildes MD, Julie A. Mayglothling MD.
ACEP Scientific Assembly 2010
September 29th, Las Vegas, Nevada
94. Critical Issues in Triage
Trauma and Critical Care Conference
October 22nd, 2010
Durango, Colorado
95. Trauma Panel Case Review
Christopher B. Colwell, Moderator
October 23rd, 2010
Durango, Colorado
96. Lightning and Electrical Emergencies
Trauma and Critical Care Conference
October 23rd, 2010
Durango, Colorado
97. Cadaver Dissection Lab
Colorado State EMS Conference 2010
November 4th, 2010
Keystone, Colorado
98. Accidental Hyper And Hypothermia And All Things In Between
Colorado State EMS Conference 2010
November 5th, 2010
Keystone, Colorado
99. Biophone Calls: The Good, The Bad, And The Ugly
Colorado State EMS Conference 2010
November 5th, 2010
Keystone, Colorado

100. Geocoding Cardiac Arrest in Denver
ECCU 2010 (Emergency Cardiac Care Update)
December 8th, 2010
San Diego, California
101. Management of the Agitated Patient
ECCU 2010 (Emergency Cardiac Care Update)
December 9th, 2010
San Diego, California
102. The Nose Knows: Intranasal Medication Options are Growing
EMS State of the Sciences: A Gathering of Eagles XIII 2011
February 26th, 2011
UT Southwestern Medical Center, Dallas, Texas
103. Beyond Agitated Delirium: Dealing with the Issue of In-Custody Deaths
The EMS State of the Sciences: A Gathering of Eagles XIII 2011
February 26th, 2011
UT Southwestern Medical Center, Dallas, Texas
104. ED Operations 101: Follow the Money
Council of Emergency Medicine Residency Directors (CORD) Academic
Assembly 2011 (March 4th)
San Diego, California
105. CPR, Defibrillation, and Drugs: What is the right VF mix?
EMS Regional Conference: Resuscitation Excellence
May 15th, 2011
New York, New York
106. We Don't Need No Stinking Breaths! Compressions Only Pre-Arrival
Instructions.
EMS Regional Conference: Resuscitation Excellence
May 15th, 2011
New York, New York
107. Moderator – Panel Discussion: Optimizing Colorado's Trauma System
38th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 22nd, 2011
Breckenridge, Colorado
108. Pitfalls in Trauma Care
38th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 24th, 2011
Breckenridge, Colorado
109. Deleterious Delirium Deliberations: Modern Pitfall is Managing Agitated
EMS Patients
Advanced EMS Practitioner's Forum and Workshop
ACEP Scientific Assembly
October 14th, 2011
San Francisco, California
110. Certifiable Behaviors: Preparing for EMS Subspecialty Board
Certification
Advance EMS Practitioner's Forum and Workshop

- ACEP Scientific Assembly
October 14th, 2011
San Francisco, California
111. Cadaver Dissection and Anatomy Lab
Colorado State EMS Conference 2011
November 3rd, 2011
Keystone, Colorado
112. On the Wings of Eagles: Hot Topics in EMS
Colorado State EMS Conference 2011
November 4th, 2011
Keystone, Colorado
113. Droperidol for Agitation
Advanced Topics in Medical Direction
NAEMSP National Meeting, 2012
January 11th, 2012
Tucson, Arizona
114. Trauma in Pregnancy
Children's Hospital EMS Conference
Aurora, Colorado
January 20th, 2012
115. Withdrawing Support: A Prehospital Protocol for Alcohol Withdrawal
EMS State of the Science: A Gathering of Eagles XIV
February 24th, 2012
Dallas, Texas
116. A Sanguine Approach: The Use of Blood Products and Substitutes in the Field
EMS State of the Science: A Gathering of Eagles
February 24th, 2012
Dallas, Texas
117. Blast Injuries
1st Annual Trauma Symposium
March 15th, 2012
Burlington, Colorado
118. Rural Trauma
1st Annual Trauma Symposium
March 15th, 2012
Burlington, Colorado
119. Trauma in Pregnancy
2012 NE Colorado EMS Symposium
April 21st, 2012
Fort Morgan, Colorado
120. Hemorrhage Control in the Field: Tourniquets and Beyond
Grand Rounds – St. Mary's and Convent Health Care/Synergy Medical Center
Hospitals
May 10th, 2012
Saginaw, Michigan

121. Mass Casualty and Disaster Management
Invited Lecture – Convent Health Care/Synergy Medical Center
April 21st, 2012
Saginaw, Michigan
122. Trauma in Pregnancy
39th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 29th, 2012
Breckenridge, Colorado
123. Taking it on the QT: What are the Cardiac Effects of Sedation Practices?
Emergency Cardiac Care Update (ECCU) 2012
Pre-conference Workshop
September 12th, 2012
Orlando, Florida
124. Withdrawing Support: Managing Alcohol Withdrawal in the Field
Emergency Cardiac Care Update (ECCU) 2012
Pre-conference Workshop
September 12th, 2012
Orlando, Florida
125. Making Waves Diagnostically: Identifying Subtle Critical Emergencies with Capnography
Emergency Cardiac Care Update (ECCU) 2012
Conference Session – Eagles: State of the Science
September 13th, 2012
Orlando, Florida
126. Two Carbon Fragmentations: A Prehospital Protocol for Ethanol Withdrawal.
2012 ACEP Advanced EMS Practitioners' Forum and Workshop
October 7th, 2012
Denver, Colorado
127. How to Break the Ache: 2012 Approaches to Prehospital Pain Control
2012 ACEP Advanced EMS Practitioners' Forum and Workshop
October 7th, 2012
Denver, Colorado
128. I'd Scan That! Effective Diagnostic Trauma Imaging
ACEP Scientific Assembly
October 9th, 2012
Denver, Colorado
129. Evidence-Based Minor Trauma Management
ACEP Scientific Assembly
October 9th, 2012
Denver, Colorado
130. Trauma Talk: The Latest and the Greatest Trauma Literature
ACEP Scientific Assembly
October 10th, 2012
Denver, Colorado

131. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield
ACEP Scientific Assembly
October 10th, 2012
Denver, Colorado
132. MCI Medical Response: Are We Prepared?
Denver Health Critical Care Conference
October 12th, 2012
Denver, Colorado
133. The Colorado Shootings: Lessons Learned from Mass Casualty Events
Grand Rounds – Beth Israel/Deaconess Medical Center
November 7th, 2012
Boston, Massachusetts
134. The Colorado Shootings: Lessons Learned from Mass Casualty Events
Keynote Speaker: Hillsborough County Medical Association
November 13th, 2012
Tampa Bay, Florida
135. The Colorado Shootings: Lessons Learned on Disaster Management and Mass Casualty Events
Grand Rounds: Scripps Memorial Hospital
December 11th, 2012
La Jolla, California
136. EMS in the Cross-Hairs: The Columbine, Aurora and Safeway Shootings
EMS State of the Science: A Gathering of Eagles XV
February 22nd, 2013
Dallas, Texas
137. Oh, What a Relief It Is! Revisiting Pain Medication Use in EMS
EMS State of the Science: A Gathering of Eagles XV
February 22nd, 2013
Dallas, Texas
138. ED Operations 101: Follow the Money
Council of Emergency Medicine Residency Directors (CORD)
Academic Assembly 2013
March 7th, 2013
Denver, Colorado
139. Disaster Planning & Response: Lessons Learned from the Colorado Shootings
Trauma, Critical Care, and Acute Care Surgery 2013 – Medical Disaster Response
March 17th, 2013
Las Vegas, Nevada
140. Case Management Interactive Session: Practical Issues & Dilemmas in Mass Casualty Preparedness
Trauma, Critical Care, and Acute Care Surgery 2013 – Medical Disaster Response
March 17th, 2013

- Las Vegas, Nevada
141. Trauma Surgeons Emergency Physicians and Trauma Care
Trauma, Critical Care, and Acute Care Surgery 2013
March 20th, 2013
Las Vegas, Nevada
142. Mass Casualty and Disaster Management – The Colorado Shootings
Visiting Professorship/Grand Rounds
Southern Illinois University School of Medicine
April 18th, 2013
Springfield, Illinois
143. Mass Casualty and Disaster Management – The Colorado Shootings
Sangamon County Medical Society
April 18th, 2013
Springfield, Illinois
144. Lessons Learned from the Colorado Shootings
12th Annual Trauma Symposium
Mississippi Coastal Trauma Region
May 1st, 2013
Biloxi, Mississippi
145. Mass Casualty and Disaster Management – The Colorado Shootings
Grand Rounds – Indiana University Hospital-Methodist
May 10th, 2013
Indianapolis, Indiana
146. Prehospital Panel
Moderator
40th Annual Rocky Mountain Trauma & Emergency Medicine
Conference
June 27th, 2013
Breckenridge, Colorado
147. Environmental Emergencies
40th Annual Rocky Mountain Trauma & Emergency Medicine Conference
June 28th, 2013
Breckenridge, Colorado
148. Lessons Learned from the Colorado Shootings
43rd Annual Wyoming Trauma Conference
August 16th, 2013
Cheyenne, Wyoming
149. Oh What a Relief It Is: Evolving Trends in Prehospital Pain Management
IAFF Advanced EMS Practitioners, Chiefs, & Medical Directors Forum
August 24th, 2013
Denver, Colorado
150. EMS in the Cross-Hairs: The Columbine, Aurora, and Safeway Shootings
IAFF Advanced EMS Practitioners, Chiefs, & Medical Directors Forum
August 24th, 2013
Denver, Colorado

151. The Reality of the New Specialty: What Will Be the Impact of the New EMS Boards for Fire?
IAFF Advanced EMS Practitioners, Chiefs, & Medical Directors Forum
August 24th, 2013
Denver, Colorado
152. I'd Scan That!: Use of CT Scans in Trauma Care
Grand Rounds – University of Wisconsin School of Medicine
August 29th, 2013
Madison, Wisconsin
153. Evidence-Based Minor Trauma Management
Grand Rounds – University of Wisconsin School of Medicine
August 29th, 2013
Madison, Wisconsin
154. Mass Casualty and Disaster Management: EMS Lessons from the Colorado Shootings
EMS World Expo 2013
September 11th, 2013
Las Vegas, Nevada
155. 2013 Approaches to Pain Management and Sedation
EMS World Expo 2013
September 11th, 2013
Las Vegas, Nevada
156. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
DuPage County Medical Society Annual Meeting
October 9th, 2013
Chicago, Illinois
157. Mass Casualty Management: The Colorado Shootings
Northern Colorado Emergency and Trauma Care Symposium
October 11th, 2013
Loveland, Colorado
158. The Combative, Uncooperative, Arrested and Threatening Trauma Patient: A Legal, Ethical and Medical Minefield!
ACEP Scientific Assembly 2013
October 15th, 2013
Seattle, Washington
159. Skip the Scan! Effective Diagnostic Trauma Imaging
ACEP Scientific Assembly 2013
October 16th, 2013
Seattle, Washington
160. I Survived: Domestic Disasters – Lessons Learned from the Trenches
ACEP Scientific Assembly 2013
October 16th, 2013
Seattle, Washington
161. Managing Ballistic Injuries in the Pre-Hospital Setting
World Extreme Medicine Expo 2013

- Harvard Medical School
October 28th, 2013
Boston, Massachusetts
162. Cadaver Lab – Trauma Procedures
Colorado State EMS Conference 2013
November 7th, 2013
Keystone, Colorado
163. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
2013 Trauma and Critical Care Conference
November 8th, 2013
Durango, Colorado
164. Mass Casualty and Disaster Management: The Colorado Shootings
Lake County Medical Society Annual Meeting
December 3rd, 2013
Chicago, Illinois
165. Myths in Trauma Care
Yampa Valley Medical Center Trauma Conference
November 15th, 2013
Steamboat Springs, Colorado
166. Myths in Pediatric Care
The Brian Schimpf Memorial Prehospital Pediatric Care Conference
February 8th, 2014.
Denver, Colorado
167. Child-Like Behaviors: 10 Myths of EMS Pediatric Care
EMS State of the Science: A Gathering of Eagles XVI
February 28th, 2014
Dallas, Texas
168. Epidemic Proportions: Dosing Ketamine in the Era of Mamba Dramas
EMS State of the Science: A Gathering of Eagles XVI
March 1st, 2014
Dallas, Texas
169. Covering Mental Illness and Violence
Health Journalism 2014 (Association of Health Care Journalism)
March 29th, 2014
Denver, Colorado
170. Wound Management: How Do you Manage Cuts and Burns
American College of Emergency Physicians (ACEP) Advanced Practice
Provider Academy
April 15th, 2014
San Diego, CA
171. Evaluation of Patients with Blunt Multiple Trauma and Penetrating Trauma: A Systematic Approach
American College of Emergency Physicians (ACEP) Advanced Practice
Provider Academy
April 15th, 2014

- San Diego, CA
172. Preparedness Put to the Test: Lessons Learned from Major Events to Guide Hospital Disaster Preparedness
Medical World Americas Conference and Expo
April 28th, 2014
Houston, TX
 173. Myths in Trauma Care
13th Annual MS Coastal Trauma Symposium
May 14th, 2014
Biloxi, MS
 174. Anxiolysis for the Cardiac Care Provider: Easy Choices for Sedation in Emergency Care
Emergency Cardiac Care Update (ECCU), EMS Preconference Workshop
June 3rd, 2014
Las Vegas, NV
 175. Taking it on the QT: What are the Cardiac Effects of Sedation Practices?
Emergency Cardiac Care Update (ECCU), EMS Preconference Workshop
June 3rd, 2014
Las Vegas, NV
 176. Anxiolysis for the Cardiac Care Provider: Easy Choices for Sedation in Emergency Care
Emergency Cardiac Care Update (ECCU), 2014 Citizens CPR
Foundation: Clinical Solutions and Best Practices for EMS
June 4th, 2014
Las Vegas, NV
 177. Taking it on the QT: What are the Cardiac Effects of Sedation Practices?
Emergency Cardiac Care Update (ECCU), 2014 Citizens CPR
Foundation: Clinical Solutions and Best Practices for EMS
June 4th, 2014
Las Vegas, NV
 178. Hyperfibrinolysis, Physiologic Fibrinolysis, and Fibrinolysis Shutdown: The Spectrum of Postinjury Fibrinolysis and Relevance to Antifibrinolytic Therapy
Moderator - Denver Health Trauma Services Continuing Education Series
June 25th, 2014
Denver, CO
 179. Myths in Pediatric Emergency Care
41st Annual Rocky Mountain Trauma and Emergency Medicine Conference
July 9th, 2014
Breckenridge, CO
 180. The Combative, Uncooperative, Intoxicated Patient: An Ethical, Moral and Legal Dilemma
41st Annual Rocky Mountain Trauma and Emergency Medicine Conference
July 11th, 2014
Breckenridge, CO
 181. Myths in Pediatric Care

- 2014 University of Colorado Health and Denver Health Trauma Consortium:
Acute Care Surgery, Trauma, and EMS Conference
August 23rd, 2014
Colorado Springs, CO
182. Rural Trauma Care
Great Plains Trauma Conference
September 18th, 2014
North Platte, Nebraska
183. How to Break the Ache: 2014 Ways to Manage Prehospital Analgesia and Sedation
Advanced EMS Practitioner's Forum and Workshop
ACEP 2014
October 26th, 2014
Chicago, Illinois
184. No Small Lie: Debunking Myths in Pediatric EMS Care
Advanced EMS Practitioner's Forum and Workshop
ACEP 2014
October 26th, 2014
Chicago, Illinois
185. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield!
American College of Emergency Physicians (ACEP) Scientific Assembly
2014
October 27th, 2014
Chicago, Illinois
186. Cruising the Literature: The Most Influential EMS Articles of 2014
American College of Emergency Physicians (ACEP) Scientific Assembly
2014
October 28th, 2014
Chicago, Illinois
187. Tales from the Rig: EMS Medical Director Words of Wisdom
American College of Emergency Physicians (ACEP) Scientific Assembly
2014
October 28th, 2014
Chicago, Illinois
188. Imagine a World Without Backboards? Controversies in Spinal Immobilization
American College of Emergency Physicians (ACEP) Scientific Assembly
2014
October 28th, 2014
Chicago, Illinois
189. Disaster Management: Lessons Learned from the Colorado Shootings
Keynote Address: 9th Annual NORTN Regional Trauma Conference
November 7th, 2014
Akron General Hospital, Akron, Ohio

190. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield!
9th Annual NORTN Regional Trauma Conference
November 7th, 2014
Akron General Hospital, Akron, Ohio
191. Ketamine for Excited Delirium
EMS World Expo
November 11th, 2014
Nashville, TN
192. 10 Myths of EMS Pediatric Care
EMS World Expo
November 11th, 2014
Nashville, TN
193. Biophone Communications
EMS World Expo
November 11th, 2014
Nashville, TN
194. EMS Medical Director Panel
EMS World Expo
November 12th, 2014
Nashville, TN
195. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield!
Boulder Community Hospital/AMR EMS Conference 2014
December 6th, 2014
Boulder, CO
196. Special K: Ketamine in EMS
7th Annual Advanced Topics in Medical Direction
NAEMSP 2015
January 20th, 2015
New Orleans, LA
197. First it was Backboards, now C-Collars
EMS State of the Science: A Gathering of Eagles XVII
February 20th, 2015
Dallas, TX
198. Taking it to the Streets! Prehospital Infusion of Plasma
EMS State of the Science: A Gathering of Eagles XVII
February 20th, 2015
Dallas, TX
199. Street Fighting Man! When the Combative Patient is Refusing Transport
EMS State of the Science: A Gathering of Eagles XVII
February 21st, 2015
Dallas, TX
200. A Hurt-Full Remark: Supporting Ketamine Use for Pain Management
EMS State of the Science: A Gathering of Eagles XVII
February 21st, 2015

Dallas, TX

201. Imagine a World Without Backboards? Controversies in Spinal Immobilization
2nd Annual Brain Schimpf Memorial Pediatric EMS Conference
February 28th, 2015
Denver, CO
202. Providing for the Providers: Impact of Traumatic Events on Providers
Keynote address: Colorado CPR Association Annual Meeting
April 30th, 2015
Denver, CO
203. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
North Trauma Care Region 2015 Trauma Symposium
May 8th, 2015
Tupelo, MS
204. Management of Excited Delirium in the Era of Legalized Marijuana
Vanderbilt Residency in Emergency Medicine
May 19th, 2015
Nashville, TN
205. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Grand Rounds Presentation, Vanderbilt University School of Medicine
May 19th, 2015
Nashville, TN
206. Active Shooter – Prehospital Forum (Moderator)
42nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 19th, 2015
Vail, Colorado
207. Imagine a World without Backboards
42nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 20th, 2015
Vail, Colorado
208. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Ohio EMS Lecture Series – Keynote address
August 20th, 2015
Akron, Ohio
209. Myths in Pediatric Care
Grand Rounds, Deaconess Regional Trauma Center
EMS Trauma Symposium
September 9th, 2015
Evansville, Indiana
210. Plasma Administration in the Field: The COMBAT Trial
World Trauma Symposium
September 16th, 2015
Las Vegas, Nevada

211. The Combative, Uncooperative, Intoxicated Trauma Patient: A Medical, Legal, and Ethical Nightmare!
EMS World
September 17th, 2015
Las Vegas, Nevada
212. The Medical Impact of Marijuana Legalization
EMS World
September 17th, 2015
Las Vegas, Nevada
213. How to Deploy a New Toy for Every Girl and Boy: Implementing a Simpler System for Treating Children
ACEP 2015 Scientific Assembly Advanced EMS Practitioners Forum and Workshop
October 25th, 2015
Boston, Massachusetts
214. For the Life of all Flesh is the Blood Thereof! Prehospital Use of Blood Products and Systemic Bleeding Control
ACEP 2015 Scientific Assembly Advanced EMS Practitioners Forum and Workshop
October 25th, 2015
Boston, Massachusetts
215. Trauma STAT! Don't Miss the Visual Cue
ACEP Scientific Assembly 2015
October 28th, 2015
Boston, Massachusetts
216. The Combative, Uncooperative Trauma Patient
ACEP Scientific Assembly 2015
October 28th, 2015
Boston, Massachusetts
217. How to Deploy a New Toy for Every Girl and Boy: Implementing a Simpler System for Treating Children
EAGLES – Best Practices in Street Medicine: Implementing the New Guidelines and Several Exceptional Innovations in Out-of-Hospital Emergency Cardiac Care
ECCU (Emergency Cardiovascular Care Update) 2015
December 9th, 2015
San Diego, California
218. Anxiolysis in Emergency Cardiac Care: 2015 Approaches to Safe Sedation
EAGLES – Best Practices in Street Medicine: Implementing the New Guidelines and Several Exceptional Innovations in Out-of-Hospital Emergency Cardiac Care
ECCU (Emergency Cardiovascular Care Update) 2015
December 9th, 2015
San Diego, California

219. Latest Drugs of Abuse: The Impact of Legalization of Marijuana and Testing of EMS Personnel
EMS Today (JEMS Conference and Exposition)
February 25th, 2016
Baltimore, Maryland
220. Chemical Suicides
EMS Today (JEMS Conference and Exposition)
February 25th, 2016
Baltimore, Maryland
221. Lightning Rounds: Ask the Eagles
EMS Today (JEMS Conference and Exposition)
February 26th, 2016
Baltimore, Maryland
222. Deliriously Yours: 2016 Approaches to Managing the Toxic Patients
First There First Care Regional EMS Conference
May 26th, 2016
Broward County, Florida
223. Promoting Post-Traumatic Provider Protection: Dealing with Depression, Anxiety, and Stress in EMS
First There First Care Regional EMS Conference
May 26th, 2016
Broward County, Florida
224. There Will Be Blood in the Streets: On-Scene Use of Plasma, Cells and Other Clot-Musters
First There First Care Regional EMS Conference
May 26th, 2016
Broward County, Florida
225. Trauma in Pregnancy
43rd Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 18th, 2016
Denver, Colorado
226. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Zuckerberg San Francisco General Hospital and Trauma Center Department of Medicine Grand Rounds
September 6th, 2016
San Francisco, California
227. Primum Non Nocere – to Yourself: Responding to the Malicious Mayhem of Mentally-ill Menaces
2016 ACEP Scientific Assembly – Advanced EMS Practitioner’s Forum and Workshop
October 15th, 2016
Las Vegas, Nevada
228. No Child (or Adult) Left Behind? The Complexities of Patient Refusal & Non-Transport Decisions

- 2016 ACEP Scientific Assembly – Advanced EMS Practitioner’s Forum and Workshop
October 15th, 2016
Las Vegas, Nevada
229. Taking the Pressure Off Sedation: Why Ketamine is My Pet Amine
2016 ACEP Scientific Assembly – Advanced EMS Practitioner’s Forum and Workshop
October 15th, 2016
Las Vegas, Nevada
230. Beyond the MVC: Burned, Blasted, and Bolted Trauma Victims
2016 ACEP Scientific Assembly
October 16th, 2016
Las Vegas, Nevada
231. Fast Facts: Let’s Chat About Trauma
2016 ACEP Scientific Assembly
October 16th, 2016
Las Vegas, Nevada
232. The Combative, Uncooperative, Trauma Patient
2016 ACEP Scientific Assembly
October 16th, 2016
Las Vegas, Nevada
233. Managing the Malicious Mayhem from Mentally Ill Menaces: The Evolving Roles of EMS in Active Shooter Incidents
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska
234. Grass Roots Experience with Swedish Fish: A Token Presentation on Marijuana Legalization
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska
235. Promoting Post-Traumatic Provider Protection: Dealing with Depression, Anxiety, and Stress in EMS
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska
236. Minding Your P’s and Q’s: What are the Actual Cardiac Effects of Sedation Practices?
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska
237. It’s No Small Matter: Implementing a Simpler System for Treating Children
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska

238. Calling a Code Alert on our Mental Health: Suicide in EMS
2017 NAEMSP Annual Meeting and Scientific Assembly
January 26th, 2017
New Orleans, Louisiana
239. Child Abuse
2017 Iowa Emergency Medical Services Association Pediatric Conference
February 25th, 2017
Des Moines, Iowa
240. Apparent Life-Threatening Events
2017 Iowa Emergency Medical Services Association Pediatric Conference
February 25th, 2017
Des Moines, Iowa
241. Impact of Marijuana Legalization
2017 Iowa Emergency Medical Services Association Pediatric Conference
February 25th, 2017
Des Moines, Iowa
242. Myths in Pediatric Care
2017 Iowa Emergency Medical Services Association Pediatric Conference
February 25th, 2017
Des Moines, Iowa
243. Traumatic Shock
UCSF High Risk Emergency Medicine Conference
April 9th, 2017
Maui, Hawaii
244. Penetrating Abdominal Trauma
UCSF High Risk Emergency Medicine Conference
April 9th, 2017
Maui, Hawaii
245. The Combative, Intoxicated Trauma Patient: A Medical, Legal, and Ethical Conundrum!
UCSF High Risk Emergency Medicine Conference
April 9th, 2017
Maui, Hawaii
246. Geriatric Trauma
UCSF High Risk Emergency Medicine Conference
April 9th, 2017
Maui, Hawaii
247. Accidental Hypothermia
Wilderness Medicine: Avoiding and Managing Outdoor Medical Emergencies
UCSF Wilderness Medicine Medical School Elective and Mini Medical School for the Public
April 26th, 2017
San Francisco, California
248. High Altitude Illness
Wilderness Medicine: Avoiding and Managing Outdoor Medical Emergencies

UCSF Wilderness Medicine Medical School Elective and Mini Medical
School for the Public
April 26th, 2017
San Francisco, California

249. Managing the Crashing, Combative Trauma Patient
High Risk Emergency Medicine San Francisco
June 1st, 2017
San Francisco, California
250. Imaging in Trauma
High Risk Emergency Medicine San Francisco
June 1st, 2017
San Francisco, California
251. Safe Sedation in the Era of Legalized Marijuana
National EMS Safety Summit
August 21st, 2017
Denver, Colorado
252. Safety in EMS – Panel Discussion
National EMS Safety Summit
August 22nd, 2017
Denver, Colorado
253. Lessons Learned from Active Shooter Scenarios
6th Annual Medical-Legal Forum
Mile High Regional Medical and Trauma Advisory Council
September 28th, 2017
Lakewood, Colorado
254. Integration and Challenges of Local, State and Federal Medical Surge
Resources – Perspectives on the SFFW Full Scale Exercise and Asset
Integration
Panelist – Medical Peer to Peer Exchange Seminar
San Francisco Fleet Week 2017
October 4th, 2017
San Francisco, California
255. Trauma STAT! Don't Miss This Visual Cue!
American College of Emergency Physicians (ACEP) Scientific Assembly
October 31st, 2017
Washington D.C.
256. FAST FACTS: Let's Chat About Adult Trauma
American College of Emergency Physicians (ACEP) Scientific Assembly
October 31st, 2017
Washington D.C.
257. Advanced Wound Care Closure in the ED: Putting the Pieces Back
Together
American College of Emergency Physicians (ACEP) Scientific Assembly
October 31st, 2017
Washington D.C.

258. Pediatric Resuscitation is No Small Matter: 2017 Approaches to Managing Cardiac Events in Children
Emergency Cardiovascular Care Update (ECCU) 2017
December 5th, 2017
New Orleans, Louisiana
259. De-MS in EMS: Fentanyl versus Morphine for Chest Pain Management
Emergency Cardiovascular Care Update (ECCU) 2017
December 5th, 2017
New Orleans, Louisiana
260. Toxic Remarks: Case Studies of Cardiac Effects of Drugs of Abuse
Emergency Cardiovascular Care Update (ECCU) 2017
December 6th, 2017
New Orleans, Louisiana
261. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Grand Rounds – University of Michigan Department of Emergency Medicine
January 10th, 2018
Ann Arbor, Michigan
262. Better Mind Your P's and Q's: Subtle Cardiac Effects of Drugs of Abuse
EMS State of the Science: A Gathering of Eagles XX
March 2nd, 2018
Dallas, Texas
263. DeMSing EMS: Why I'd Get Rid of Morphine Sulfate
EMS State of the Science: A Gathering of Eagles XX
March 3rd, 2018
Dallas, Texas
264. A Grass Roots Experience: The Medical Implications of Marijuana Legalization in Colorado
ZSFG Medicine Grand Rounds
March 27th, 2018
San Francisco, California
265. Pitfalls in the Trauma Airway
UCSF High Risk Emergency Medicine Hawaii
April 9th, 2018
Maui, Hawaii
266. Challenging Trauma Case Panel
Moderator
UCSF High Risk Emergency Medicine
April 11th, 2018
Maui, Hawaii
267. Pitfalls in Patients with Stab Wounds
UCSF High Risk Emergency Medicine Hawaii
April 10th, 2018
Maui, Hawaii
268. Pitfalls in the Patient Found Down
UCSF High Risk Emergency Medicine Hawaii

- April 10th, 2018
Maui, Hawaii
269. The Combative, Uncooperative Trauma Patient
SEMPA 360 – Society of Emergency Medicine Physician Assistants National
Assembly
May 5th, 2018
San Antonio, Texas
270. Mass Casualty: Lessons Learned from the Colorado Shootings
SEMPA 360 – Society of Emergency Medicine Physician Assistants National
Assembly
May 5th, 2018
San Antonio, Texas
271. The Medical Impact of Marijuana Legalization
SEMPA 360 – Society of Emergency Medicine Physician Assistants National
Assembly
May 5th, 2018
San Antonio, Texas
272. Update on Urologic Emergencies
Moderator – Panel Discussion on Testicular Torsion, Priapism, and Penile
Fracture
American Urological Association (AUA) Annual Meeting 2018
May 20th, 2018
San Francisco, California
273. Assessing Capacity in the Intoxicated Trauma Patient
Keynote Address – 45th Annual Rocky Mountain Trauma and Emergency
Medicine Conference
June 7th, 2018
Vail, Colorado
274. Pitfalls in Patients with Stab Wounds
45th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 8th, 2018
Vail, Colorado
275. Trauma Panel of Experts
45th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 8th, 2018
Vail, Colorado
276. Cruising the Literature: Trauma 2018
American College of Emergency Physicians (ACEP) National Scientific
Assembly 2018
October 2nd, 2018
San Diego, California
277. Fast Facts: Let's Chat about Adult Trauma
American College of Emergency Physicians (ACEP) National Scientific
Assembly 2018
October 2nd, 2018
San Diego, California

278. ED Thoracotomy: When, Who, and How
American College of Emergency Physicians (ACEP) National Scientific Assembly 2018
October 3rd, 2018
San Diego, California
279. Clear as Mud: C-Spine Clearance 2018
American College of Emergency Physicians (ACEP) National Scientific Assembly 2018
October 3rd, 2018
San Diego, California
280. Grass-Roots Experience with Rocky Mountain Highs: What Marijuana Legislation did for the C-States
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
281. How to De-Code the No-Load Mode: When a Patient Declines Transport
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
282. Mitigating Child-Like Behaviors: Dismantling Major Myths of EMS Care for Kids
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
283. Not Just a Breathless Experience: The Cardiac Effects of Drugs of Abuse
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
284. Altered States of Mind – Part 1: Sedation Practices in EMS
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
285. Causalities for Caustic Cautions About Precautions: 2018 Approaches to Spinal Motion Restriction
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
286. On the Wings of Eagles – Hot Topics in EMS
Iowa EMS Association (IEMSA) Annual Meeting
November 9th, 2018
Des Moines, Iowa
287. Myths in Pediatric Care
Iowa EMS Association (IEMSA) Annual Meeting
November 10th, 2018
Des Moines, Iowa

288. Impact of Legalization of Marijuana on EMS/The Combative Intoxicated Patient
Iowa EMS Association (IEMSA) Annual Meeting
November 10th, 2018
Des Moines, Iowa
289. Intubation and Sedation of the Critically Ill Patient
High Risk Emergency Medicine 2019
February 19th, 2019
Honolulu, Hawaii
290. Transfer of the Trauma Patient
High Risk Emergency Medicine 2019
February 20th, 2019
Honolulu, Hawaii
291. Advanced Wound Care Closure in the ED
High Risk Emergency Medicine 2019
February 22nd, 2019
Honolulu, Hawaii
292. Persistent Injurious Concepts: Continuing Major Myths in Trauma Care
EMS State of the Science XXI: A Gathering of Eagles
March 1st, 2019
Dallas, Texas
293. Electrocardiography 501: Subtle ECG Findings You Might Miss
EMS State of the Science XXI: A Gathering of Eagles
March 2nd, 2019
Dallas, Texas
294. The History of Emergency Medicine
San Diego Trauma Society
April 12th, 2019
San Diego, California
295. Trauma Literature 2019 – The Latest and Greatest
Grand Rounds: Mount Sinai Health System/Icahn School of Medicine
April 16th, 2019
New York, New York
296. Hypothermia and Cold Related Injury
2019 Wilderness Medicine Elective
UCSF School of Medicine
May 1st, 2019
San Francisco, California
297. High Altitude Illness
2019 Wilderness Medicine Elective
UCSF School of Medicine
May 1, 2019
San Francisco, California
298. Precautionary Cautions About Precautions: 2019 Approaches to Spinal Motion Restriction
Polk County Fire Rescue EMS Week 2019 Medical Seminar – Eagles

May 23rd, 2019
Orlando, Florida

299. Mitigating Child-Like Behaviors: Dismantling the Major Myths about Managing Maladies in Minors
Polk County Fire Rescue EMS Week 2019 Medical Seminar – Eagles
May 23rd, 2019
Orlando, Florida
300. Acing the Tracing Your Facing: Subtle ECG Findings You Don't Want to Miss
Polk Country Fire Rescue EMS Week 2019 Medical Seminar – Eagles
May 23rd, 2019
Orlando, Florida
301. Mass Casualty and Disaster Management – Lessons Learned from the Colorado Shootings
Grand Rounds – Department of Emergency Medicine
University Hospitals Cleveland Medical Center
June 13th, 2019
Cleveland, Ohio
302. High Altitude Illness
University Hospitals Cleveland Medical Center
June 13th, 2019
Cleveland, Ohio
303. Sedation of the Trauma Patient
University Hospitals Cleveland Medical Center
June 13th, 2019
Cleveland, Ohio
304. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Keynote address – 31st Annual David Miller Memorial Trauma Symposium
October 11th, 2019
Springfield, Missouri
305. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield
31st Annual David Miller Trauma Symposium
October 11th, 2019
Springfield, Missouri
306. Management of Pelvic Trauma – Binders, REBOA, and More!
American College of Emergency Physicians (ACEP) Scientific Assembly,
2019 [ACEP19]
October 28th, 2019
Denver, Colorado
307. Life Saving Procedures in Trauma
American College of Emergency Physicians (ACEP) Scientific Assembly,
2019 [ACEP19]
October 28th, 2019
Denver, Colorado

308. Cruising the Literature – Best Trauma Articles of 2019
American College of Emergency Physicians (ACEP) Scientific Assembly,
2019 [ACEP19]
October 29th, 2019
Denver, Colorado
309. Transfer of the Trauma Patient
Grand Rounds – Kaiser San Francisco
December 3rd, 2019
San Francisco, California
310. Management of Pelvic Fractures
Grand Rounds – Vanderbilt University Medical Center
December 17th, 2019
Nashville, Tennessee
311. Mass Shootings in the United States
Keynote address – Clinical Governance Day
The Royal London Hospital (via Zoom)
February 6th, 2020
312. Mass Casualty and Disaster Management – Lessons Learned from the Colorado Shootings 2020
University of Wisconsin
Emergency Medicine Grand Rounds
September 24th, 2020
Madison, Wisconsin (Virtual)
313. Management of the Agitated Trauma Patient – A Medical, Legal, and Ethical Minefield
University of Wisconsin
Emergency Medicine Grand Rounds
September 24th, 2020
Madison, Wisconsin (Virtual)
314. Cruising the Literature: Trauma 2020
American College of Emergency Physicians (ACEP) Scientific Assembly
2020
October 26th, 2020
Dallas, Texas (Virtual – live)
315. Management of Pelvic Trauma
American College of Emergency Physicians (ACEP) Scientific Assembly
2020
October 26th, 2020
Dallas, Texas (Virtual)
316. Managing the Agitated Trauma Patient
American College of Emergency Physicians (ACEP) Scientific Assembly
2020
October 27th, 2020
Dallas, Texas (Virtual)
317. Resuscitation of the Trauma Patient

- American College of Emergency Physicians (ACEP) Scientific Assembly
2020
October 27th, 2020
Dallas Texas (Virtual)
318. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
OhioHealth Trauma Care 2020
November 16th, 2020
Columbus, Ohio (Virtual)
319. Myths in Trauma Care
OhioHealth Trauma Care 2020
November 17th, 2020
Columbus, Ohio (Virtual)
320. Building Relationships with your ED Team
Trauma Center Association of America – Trauma Medical Director’s course
December 3rd, 2020
Mooresville, North Carolina (Virtual)
321. Meet the Medical Directors – The Ketamine Panel
EMS World Expo Spring Conference, 2021
March 3rd, 2021 (Virtual)
322. Managing the Agitated Trauma Patient
SEMPA Live
April 12th, 2021 (Virtual)
323. Management of the Agitated Trauma Patient
Trauma Fundamentals 2021
EMRAP Virtual International Conference
April 14th, 2021
324. Geriatric Trauma
Trauma Fundamentals 2021
EMRAP Virtual International Conference
April 15th, 2021
325. Building Relationships with your ED Team
Trauma Medical Director Course
Trauma Center Association of America
Mooresville, North Carolina (Virtual)
April 29th, 2021
326. The Combative, Uncooperative, Arrested and Threatening Trauma Patient
35th Annual Midwest Trauma Conference
May 6th, 2021
Kansas City, Missouri
327. The Columbine Shooting
35th Annual Midwest Trauma Conference (Keynote)
May 7th, 2021
Kansas City, Missouri
328. Resuscitation of the Critically Ill Trauma Patient
SEMPA 360 Annual Conference

- May 12th, 2021 (Virtual)
329. On-Scene Inapsine: Getting the Drop on the Overall Amazing utility of Droperidol
EMS State of the Science: XXII – A Gathering of Eagles
First There First Care Conference
June 17th, 2021
Hollywood, Florida
330. Defend the Glycocalyx (whatever that is)! Why Is Giving Crystalloids in Uncontrollable Hemorrhage So Wrong?
EMS State of the Science: XXII – A Gathering of Eagles
First There First Care Conference
June 17th, 2021
Hollywood, Florida
331. Minding the Mind of EMS Professionals Part II: Creating Safe Harbors for First Responders in the Golden Gate City
EMS State of the Science: XXII – A Gathering of Eagles
First There First Care Conference
June 18th, 2021
332. Building Relationships with your Emergency Department Team
Trauma Medical Director Course (Virtual)
Trauma Center Association of America
August 19th, 2021
333. Endocarditis
Key Topics in Cardiology
EM-RAP Virtual Conference
September 1st, 2021
334. Management of WPW
Key Topics in Cardiology
EM-RAP Virtual Conference
September 2nd, 2021
335. Recent Advances in the Resuscitation of the Trauma Patient
3rd Annual Marin-Health Medical Center Trauma Symposium
October 12th, 2021
Marin, California (Virtual)
336. Resuscitation of the Trauma Patient
American College of Emergency Physicians Scientific Assembly (ACEP21)
October 27th, 2021
Boston, Massachusetts
337. Breaking the Cycle: Implementing a Community Violence Intervention Program in the ED (James D. Mills, Jr. Memorial Lecture)
American College of Emergency Physicians Scientific Assembly (ACEP21)
October 27th, 2021
Boston, Massachusetts
338. Management of Pelvic Trauma
American College of Emergency Physicians Scientific Assembly (ACEP21)
October 27th, 2021

Boston, Massachusetts

339. Cruising the Literature: Trauma 2021
American College of Emergency Physicians Scientific Assembly (ACEP21)
October 28th, 2021
Boston, Massachusetts
340. Breaking the Cycle: Implementing a Community Violence Intervention Program in the ED
Grand Rounds – Department of Pediatrics
UCSF School of Medicine
February 8th, 2022
341. Medical Clearance of the Psychiatric Patient
SEMPA 360
April 6th, 2022
Las Vegas, Nevada
342. Trauma Literature 2022
SEMPA 360
April 6th, 2022
Las Vegas, Nevada
343. Trauma Resuscitation Pearls and Pitfalls
High Risk Emergency Medicine
April 10th, 2022
Maui, Hawaii
344. The Precipitous Delivery
High Risk Emergency Medicine
April 11th, 2022
Maui, Hawaii
345. Medical Clearance of the Psychiatric Patient
High Risk Emergency Medicine
April 13th, 2022
Maui, Hawaii
346. Trauma Literature Update 2022
High Risk Emergency Medicine
April 14th, 2022
Maui, Hawaii
347. Resuscitation of the Penetrating Trauma Patient
EMRAP One
April 20th, 2022
Los Angeles, California
348. Managing Patients with Agitated Behavior
NAEMT/NAEMSP National Webinar
May 10th, 2022
349. Five More on the Floor: The Five Most Important Trauma Publications of the Past Year
2022 First There First Care Conference
EMS State of the Science: XXIII – A Gathering of Eagles
June 16th, 2022

- Hollywood, Florida
350. Deciding Veracity in Capacity with Tenacity: How to Best and Safely Assess the Patient's Ability to Decide Their Own Fate
2022 First There First Care Conference
EMS State of the Science: XXIII – A Gathering of Eagles
June 17th, 2022
Hollywood, Florida
351. Geriatric Trauma
Grand Rounds – University of Texas Southwestern
July 21st, 2022
Dallas, Texas
352. School Shootings
13th International Trauma Congress – Challenges in Trauma Patient Care
July 28th, 2022
Sao Paulo, Brazil (Virtual)
353. Trauma Resuscitation
Northwest Seminars – Topics in Emergency Medicine: Trauma
August 8th, 2022
Whitefish, Montana
354. Trauma Literature 2020-2022
Northwest Seminars – Topics in Emergency Medicine: Trauma
August 8th, 2022
Whitefish, Montana
355. Geriatric Trauma
Northwest Seminars – Topics in Emergency Medicine: Trauma
August 9th, 2022
Whitefish, Montana
356. Management of the Agitated Trauma Patient
Northwest Seminars – Topics in Emergency Medicine: Trauma
August 9th, 2022
Whitefish, Montana
357. Pelvic Trauma
Northwest Seminars – Topics in Emergency Medicine: Trauma
August 11th, 2022
Whitefish, Montana
358. Myths in Trauma Care
Northwest Seminars – Topics in Emergency Medicine: Trauma
August 11th, 2022
Whitefish, Montana
359. Disaster Preparedness – Interactions with the Media
Mass Casualty Incident Training
September 8th, 2022
Tampa, Florida
360. Disaster Preparedness – Communications during a Disaster
Mass Casualty Incident Training
September 8th, 2022

Tampa, Florida

361. Disaster Management – Hospital Preparedness
Mass Casualty Incident Training
September 9th, 2022
Tampa, Florida
362. Disaster Preparedness – Triage
Mass Casualty Incident Training
September 9th, 2022
Tampa, Florida
363. Disaster Preparedness – Lessons Learned from the Colorado Shootings
Mass Casualty Incident Training
September 9th, 2022
Tampa, Florida
364. Mass Casualty and Disaster Management – Lesson’s Learned from the Colorado Shootings
Grand Rounds – Dartmouth Health
September 14th, 2022
Hanover, New Hampshire
365. The Latest and Greatest: Trauma Literature 2022
Resident Conference – Department of Emergency Medicine
Dartmouth – Hitchcock Medical Center
September 14th, 2022
Hanover, New Hampshire
366. Mass Casualty Medical Operations Management
ACEP22 Preconference
September 30th, 2022
San Francisco, California
367. Debunking Trauma Myths: It’s Not Just Politics
ACEP22 Scientific Assembly
October 1st, 2022
San Francisco, California
368. Cruising the Literature: Trauma 2022
ACEP22 Scientific Assembly
October 2nd, 2022
San Francisco, California
369. Pelvic Trauma Management
ACEP22 Scientific Assembly
October 2nd, 2022
San Francisco, California
370. Cruising the Literature: Trauma 2022
ACEP Unconventional
November 2nd, 2022
Virtual
- 371.

Certifications

- NRP, 2009
- ATLS, 2003
 - ATLS Instructor
 - November 18th, 2016
 - July 23rd, 2017
 - June 25th, 2018
 - June 24th, 2019
 - October 17th, 2019
 - June 22nd, 2020
 - July 10th, 2020
 - June 10-11, 2021
 - July 29-30, 2021
 - June 9-10, 2022
 - August 30, 2022
- ACLS, 1996
- PALS, 1994
- ATLS instructor, 2010 – present
- BLS, 2016

Media

- Tales From the Front Lines - San Francisco Magazine – September, 2017
- How to Control Bleeding – The New York Times Magazine – April 22nd, 2018
- Skinned Knees to Broken Heads: Tracking Scooter Injuries – The New York Times – August 3rd, 2018
- Interview – NBC – Scooter injuries – August 8th, 2018
- Interview – San Francisco Chronicle – Scooter Injuries – August 11th, 2018
- Wines on a Plane: Does Drinking Affect You Differently While Flying? – Wine Spectator, August 21st, 2018
- National Public Radio (NPR) segment – Heat Related Emergencies – October, 2018
- Interview – KPIX TV Channel 5 – Scooter injuries - January 25th, 2019
- Interview – San Francisco Chronicle – Scooter Injuries – January 26th, 2019
- Interview – RTV6 Indianapolis – Marijuana use kills Indiana teen, mother speaks out. Stephanie Wade, April 11, 2019
(<https://www.theindychannel.com/news/working-for-you/marijuana-use-kills-indiana-teen-mother-speaks-out>)

- Interview – The New Yorker – Twenty years after Columbine. Michael Luo, April 20th, 2019. (<https://www.newyorker.com/news/news-desk/twenty-years-after-columbine>)
- Interview – Fox KTVU Channel 2 – San Francisco averaged one fentanyl overdose death a week last year. Amber Led, June 25th, 2019 (<http://www.ktvu.com/news/ktvu-local-news/san-francisco-averaged-one-fentanyl-overdose-death-a-week-last-year>)
- Patients Leaving AMA: Signed Forms Alone Are Not Sufficient Malpractice Defense. ED Legal Letter, Volume 30, No. 8, p. 85-88, August, 2019
- Interview – San Francisco Chronicle – Psychiatric patients in the ED. August 15, 2019
- Interview – San Francisco Examiner – ED Diversion – September 26th, 2019
- Interview – San Francisco Chronicle – Emergency department management of substance abuse – November 5th, 2019
- Interview – KTVU Channel 2 Morning News (Mornings on 2) – Holiday mishaps – December 20th, 2019 https://sfgov1-my.sharepoint.com/:v:/r/personal/maricella_miranda_sfdph_org/Documents/Media/KTVU%20Chris%20Colwell_ED%20holidays_2019/IMG_0571.MOV?csf=1&e=RQGwJN
- Interview – KCBS news – Scooter injuries in the ER. January 15th, 2020
- Interview – KTVU Channel 2 Fox News – COVID 19 response, March 19th, 2020 <https://www.facebook.com/548490151931030/posts/2731790630267627/>
- Interview – LA Times – COVID 19 response, March 22, 2020
- Interview – KQED – COVID 19 response, March 24th, 2020
- Interview – KRON TV – COVID 19 response, March 26th, 2020
- Interview – ABC 7 News – COVID 19 expectations, April 13th, 2020
- Interview – ABD 7 News – COVID 19 and coagulation disorders, April 29th, 2020
- Interview – CalMatters Sacramento – Impact of delaying care during the pandemic, May 12th, 2020
- Interview – Please don't avoid the emergency room. Elemental (Ariela Zebede, author), June 9th, 2020 <https://elemental.medium.com/please-dont-avoid-the-emergency-room-aafdd21e477e>
- Interview – NBCUniversal - Impact of people staying away from the hospital during the pandemic, June 19th, 2020
- Interview – KGO TV/ABC news – Impact of COVID-19 on behavioral health patients, July 13th, 2020
- Interview – Telemundo – Impact of the pandemic on behavioral health. July 16, 2020
- Interview – KTVU Channel 2 Fox News – Heat –Related Emergencies, August 14th, 2020

- Interview – San Francisco Chronicle – Substance abuse fatalities, September 1st, 2020
- Interview – New York Times – Impact of climate change and fires on the homeless, October 23rd, 2020
- Interview – ABC Channel 7 News – ‘Going to be hard’: Bay Area doctors prepare for hospital surge as COVID-19 cases increase. November 16th, 2020
 - <https://www.msn.com/en-us/news/us/going-to-be-hard-bay-area-doctors-prepare-for-hospital-surge-as-covid-19-cases-increase/ar-BB1b57mx>
- Interview – KTVU Fox 2 News – COVID-19 vaccine. December 15th, 2020
 - <https://www.ktvu.com/news/bay-area-hospital-workers-set-to-receive-first-vaccinations>
- Interview – ABC 7 News – COVID-19 vaccine. December 16th, 2020
 - <https://abc7news.com/health/sf-general-hospital-to-administer-its-1st-covid-vaccine-doses/8785757/>
- Interview – MSNBC – 3rd Surge of the pandemic. December 26th, 2020
- Interview – KGO TV ABC 7 News – Impact of the 3rd surge of the pandemic, Saturday, January 2nd, 2021
- Interview – ABC news (local and national) – Impact of the holiday celebrations on the hospitals in San Francisco. Saturday, January 9th, 2021
- Interview – SFGATE News – COVID-19 Surge in the Bay Area. January 10th, 2021
 - [https://www.sfgate.com/bayarea/article/Christopher-Colwell-SF-General-COVID-surge-plan-15860497.php?utm_campaign=CMS%20Sharing%20Tools%20\(Premium\)&utm_source=share-by-email&utm_medium=email](https://www.sfgate.com/bayarea/article/Christopher-Colwell-SF-General-COVID-surge-plan-15860497.php?utm_campaign=CMS%20Sharing%20Tools%20(Premium)&utm_source=share-by-email&utm_medium=email)
 -
- Interview – ABC 7 News – Vaccine roll out in the Bay Area, January 11th, 2021
 - <https://abc7news.com/covid-19-vaccinations-california-bay-area-covid-vaccine/9578842/>
- Interview – FOX 2 News – Impact of the pandemic on the Bay Area, January 11th, 2021
- Interview – ABC 7 News – Update on the 3rd Surge in the Bay Area, February 22, 2021
- Interview – ABC 7 News – Cannabis Hyperemesis Syndrome, March 10th, 2021
- Interview – The Dr. Oz Show – FOX (KTVU) – Is the Worst Behind Us? Coming off the 3rd Surge of the Coronavirus Pandemic. March 10th, 2021
- Interview – ABC 7 News – Update on the vaccine distribution – Entering Phase 1C. March 14th, 2021
- Interview – ABC7 News – Use of Beta-Blockers for performance enhancement. April 5th, 2021

- Interview – ABC7 News – Complications of the Johnson and Johnson vaccine. April 23rd, 2021
- Interview – SFGATE – ‘Fentanyl has changed the whole landscape’: San Francisco faces worst drug epidemic ever. June 15th, 2021
 - <https://www.sfgate.com/bayarea/article/fentanyl-San-Francisco-overdose-drug-epidemic-16237333.php>
- Interview – KGO-TV ABC7 News – The delta variant of COVID-19. July 9th, 2021
- Interview – ABC7 News – Breakthrough COVID-19 infections. July 10th, 2021
- Interview – KTVU Fox 2 – The fentanyl epidemic. July 14th, 2021
 - <https://www.facebook.com/100057784162664/posts/243433964259407/>
- Interview – KGO-TV ABC7 – Live – Breakthrough cases and pandemic update. July 12th, 2021
 - <https://www.facebook.com/abc7news/videos/194262392659562/>
- Interview – Neurology Consult Delays Can Become an Issue in Claims. ED Legal Letter July, 2021; Vol. 32, Issue 7: pp. 80-82.
- Interview – Good Morning America (national broadcast) KGO-TV ABC7 News – Pandemic of the unvaccinated. July 20th, 2021
- Interview – KGO-TV ABC7 News – The Fourth Surge. July 28th, 2021
- Interview – KGO-TV ABC7 SF Live – Vaccine update. August 2, 2021
 - <https://www.facebook.com/abc7news/videos/347754970393905/>
- Interview – KGO-TV ABC7 News – Supplemental vaccines. August 2, 2021
- Interview – NPR – Press Play with Madeleine Brand – Why some people may need a booster shot, especially if they got Johnson and Johnson’s single dose. August 10th, 2021
 - <https://www.kcrw.com/news/shows/press-play-with-madeleine-brand/coronavirus-kids-tech-tv-film-sfv/vaccine-covid-booster>
- Interview – Associated Press – Quake survivors face elevated risk of amputations and other injuries. Published in the San Francisco Chronicle, August 29th, 2021
- Interview – KTVU Fox 2 – Opioid overdoses and the continuing epidemic. September 30th, 2021
- Interview – KGO-TV ABC7 News – Impact of vaccine mandates on the Emergency Department. October 4th, 2021
- Interview – KCBS Radio – The impact of gun violence on our communities. November 7th, 2021
- Interview – Police Transport More Patients with Mental Health Needs to ED. Published in ED Management, Vol. 33, No. 11; p. 143-5. November, 2021
- Interview – KGO-TV ABC7 News – Travel over the holidays in the current state of the pandemic. December 17th, 2021

- Interview – KGO-TV ABC7 News – Impact on the ED of the Omicron surge. January 3rd, 2022
- Interview – KGO-TV ABC7 News – Staffing and resource shortages during the pandemic. January 4th, 2022.
- Interview – KGO-TV ABC7 News – Update on the pandemic. January 23rd, 2022
- Interview – KGO-TV ABC7 News – Staffing shortage impacts during the current pandemic surge. January 31st, 2022
- Interview – ABC News – Impact of the pandemic on the opioid epidemic. March 12th, 2022
- Interview – KRON4 News – The dangers of fentanyl overdoses. April 2nd, 2022
- Interview – KGO-TV ABC7 News – Current state of the pandemic. April 27th, 2022
- Interview – When ED Providers Overlook Information Conveyed by EMS. Published in ED Management June, 2022: Vol. 34, No. 6, pgs. 92-93
- Interview – KGO-TV ABC7 News – Update on the current COVID surge. May 27th, 2022
- Interview – MedPage Today – Emergency docs on injuries from assault weapons. May 31st, 2022
- Interview – Washington Post – Trauma physicians have become depressingly prepared for mass shootings. July 1, 2022
- Interview – Denver7 ABC News – The Denver Channel – Droperidol for acute agitation in the ambulance. August 11th, 2022
- Interview – San Jose Mercury News – Impact of the heat on the emergency department. September 6th, 2022
- Interview – KQED radio – Voter outreach to patients experiencing homelessness from the ED. October 19th, 2022
- Interview – KGO-TV ABC7 News – Respiratory season update. November 29th, 2022
- Interview – San Francisco Chronicle – Impact of the cold weather on patients in the Emergency Department. November 30th, 2022
- Interview – Medscape – Impact of gun reform efforts on the Emergency Department. December 16th, 2022

Additional Activities

- Citizen CPR training
 - August 14th, 2021
 - September 4th, 2021
 - April 9th, 2022
- President, Sigma Phi Epsilon fraternity, Ann Arbor, MI 1987-1988
Active Member: 1984-1988

- Varsity Tennis, University of Michigan, Ann Arbor, MI 1984-1988
Big Ten Team Champions: 1985, 1986, 1988. NCAA Team Semifinals: 1988
- Psi Chi Honor Society 1987-1988
- Captain, Varsity Tennis Team, La Jolla High School, La Jolla, CA
- Michigan Alumnae Scholarship recipient, San Diego Chapter 1984-1985

Languages Fluent in Spanish

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai‘i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

**DECLARATION OF SAUL
CORNELL**

DECLARATION OF SAUL CORNELL

I, Saul Cornell, declare under penalty of law that the following is true and correct:

1. I have been asked by the Department of the Attorney General of the State of Hawai‘i to provide an expert opinion on the history of firearms regulation in the Anglo-American legal tradition, with a particular focus on how the Founding era understood the right to bear arms, as well as the understanding of the right to bear arms held at the time of the ratification of the Fourteenth Amendment to the United States Constitution. In *New York State Rifle & Pistol Association, Inc. v. Bruen*, the U.S. Supreme Court underscored that text, history, and tradition are the foundation of modern Second Amendment jurisprudence. This modality of

constitutional analysis requires that courts analyze history and evaluate the connections between modern gun laws and earlier approaches to firearms regulation in the American past. My declaration explores these issues in some detail. Finally, I have been asked to evaluate the statute at issue in this case, particularly regarding its connection to the tradition of firearms regulation in American legal history.

2. This declaration is based on my own personal knowledge and experience, and if I am called to testify as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

BACKGROUND AND QUALIFICATIONS

3. I am the Paul and Diane Guenther Chair in American History at Fordham University. The Guenther chair is one of three endowed chairs in the history department at Fordham and the only one in American history. In addition to teaching constitutional history at Fordham University to undergraduates and graduate students, I teach constitutional law at Fordham Law School. I have been a Senior Visiting research scholar on the faculty of Yale Law School, the University of Connecticut Law School, and Benjamin Cardozo Law School. I have given invited lectures, presented papers at faculty workshops, and participated in conferences on the topic of the Second Amendment and the history of gun regulation at Yale Law School, Harvard Law School, Stanford Law School,

UCLA Law School, the University of Pennsylvania Law School, Columbia Law School, Duke Law School, Pembroke College Oxford, Robinson College, Cambridge, Leiden University, and McGill University.¹

4. My writings on the Second Amendment and gun regulation have been widely cited by state and federal courts, including the majority and dissenting opinions in *Bruen*.² My scholarship on this topic has appeared in leading law reviews and top peer-reviewed legal history journals. I authored the chapter on the right to bear arms in *The Oxford Handbook of the U.S. Constitution* and co-authored the chapter in *The Cambridge History of Law in America* on the Founding era and the Marshall Court, the period that includes the adoption of the Constitution and the Second Amendment.³ Thus, my expertise not only includes the history of gun regulation and the right to keep and bear arms, but also extends to American legal and constitutional history broadly defined. I have provided expert witness testimony in *Rocky Mountain Gun Owners, Nonprofit Corp. v. Hickenlooper*, No. 14-cv-02850 (D. Colo.); *Chambers, v. City of Boulder*, No.

¹ For a full *curriculum vitae* listing relevant invited and scholarly presentations, see **Exhibit A**.

² *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022).

³ Saul Cornell, *The Right to Bear Arms*, in THE OXFORD HANDBOOK OF THE U.S. CONSTITUTION 739–759 (Mark Tushnet, Sanford Levinson & Mark Graber eds., 2015); Saul Cornell & Gerald Leonard, *Chapter 15: The Consolidation of the Early Federal System*, in 1 THE CAMBRIDGE HISTORY OF LAW IN AMERICA 518–544 (Christopher Tomlins & Michael Grossberg eds., 2008).

2018 CV 30581 (Colo. D. Ct., Boulder Cty.), *Zeleny v. Newsom*, No. 14-cv-02850 (N.D. Cal.), and *Miller v. Smith*, No. 2018-cv-3085 (C.D. Ill.); *Jones v. Bonta*, 3:19-cv-01226-L-AHG (S.D. Cal.); *Baird v. Bonta*, No. 2:19-cv-00617 (E.D. Cal.); *Worth v. Harrington*, No. 21-cv-1348 (D. Minn.); *Miller v. Bonta*, No. 3:19-cv-01537-BEN-JLB (S.D. Cal.); *Worth v. Harrington*, No. 21-cv-1348 (D. Minn.); and *Duncan v. Bonta*, No. 3:17-cv-01017-BEN-JLB (S.D. Cal.).

RETENTION AND COMPENSATION

5. I am being compensated for services performed in the above-entitled case at an hourly rate of \$750 for reviewing materials, writing, research, participating in meetings, and preparing reports; \$1,000 per hour for depositions and court appearances; and an additional \$500 per day for travel time. My compensation is not contingent on the results of my analysis or the substance of any testimony.

BASIS FOR OPINION AND MATERIALS CONSIDERED

6. The opinion I provide in this declaration is based on my review of the amended complaint filed in this lawsuit, my review of the state laws at issue in this lawsuit, my education, expertise, and research in the field of legal history. Additionally, my conclusions draw on a detailed review and analysis of the primary sources, secondary sources, and other materials cited in the footnotes and

text of this report. The opinions contained herein are made pursuant to a reasonable degree of professional certainty.

SUMMARY OF OPINIONS

7. In *Bruen*, the Supreme Court underscored that text, history, and tradition are the foundation of modern Second Amendment jurisprudence. Understanding text, history, and tradition require a sophisticated grasp of historical context. One must canvass the relevant primary sources, secondary literature, and jurisprudence to arrive at an understanding of the scope of permissible regulation consistent with the Second Amendment.

8. It is impossible to understand the meaning and scope of Second Amendment protections without understanding the way it fits within the larger context of American law, including the ways in which Americans in the Founding era approached legal questions and rights claims. In contrast to most modern lawyers, the members of the First Congress who wrote the words of the Second Amendment and the American people who enacted the text into law were well schooled in English common law ideas. Not every feature of English common law survived the American Revolution, but there were important continuities between English law and the common law in America.⁴ Each of the new states, either by

⁴ William B. Stoebuck, *Reception of English Common Law in the American Colonies*, 10 WM. & MARY L. REV. 393 (1968); MD. CONST. OF 1776,

statute or judicial decision, adopted multiple aspects of the common law, focusing primarily on those features of English law that had been in effect in the English colonies for generations.⁵ No legal principle was more important to the common law than the concept of the peace.⁶ As one early American justice of the peace manual noted: “the term peace, denotes the condition of the body politic in which no person suffers, or has just cause to fear any injury.”⁷ Blackstone, a leading source of early American views about English law, opined that the common law “hath ever had a special care and regard for the conservation of the peace; for peace is the very end and foundation of civil society.”⁸

9. In *Bruen*, Justice Kavanaugh reiterated *Heller*’s invocation of Blackstone’s authority as a guide to how early Americans understood their inheritance from England. Specifically, Justice Kavanaugh stated in unambiguous terms that there was a “well established historical tradition of prohibiting the

DECLARATION OF RIGHTS, art. III, § 1; Lauren Benton & Kathryn Walker, *Law for the Empire: The Common Law in Colonial America and the Problem of Legal Diversity*, 89 CHI.-KENT L. REV. 937 (2014).

⁵ 9 STATUTES AT LARGE OF PENNSYLVANIA 29-30 (Mitchell & Flanders eds. 1903); FRANCOIS XAVIER MARTIN, A COLLECTION OF STATUTES OF THE PARLIAMENT OF ENGLAND IN FORCE IN THE STATE OF NORTH-CAROLINA 60–61 (Newbern, 1792); *Commonwealth v. Leach*, 1 Mass. 59 (1804).

⁶ LAURA F. EDWARDS, *THE PEOPLE AND THEIR PEACE: LEGAL CULTURE AND THE TRANSFORMATION OF INEQUALITY IN THE POST-REVOLUTIONARY SOUTH* (University of North Carolina Press, 2009).

⁷ JOSEPH BACKUS, *THE JUSTICE OF THE PEACE* 23 (1816).

⁸ 1 WILLIAM BLACKSTONE, *COMMENTARIES* *349.

carrying of dangerous and unusual weapons.”⁹ The dominant understanding of the Second Amendment and its state constitutional analogues at the time of their adoption in the Founding period forged an indissoluble link between the right to keep and bear arms with the goal of preserving the peace.¹⁰

10. “Constitutional rights,” Justice Scalia wrote in *Heller*, “are enshrined with the scope they were thought to have when the people adopted them.”¹¹

Included in this right was the most basic right of all: the right of the people to

⁹ *District of Columbia v. Heller*, 554 U.S. 570, 626–627 (2008), and n. 26. Blackstone and Hawkins, two of the most influential English legal writers consulted by the Founding generation, described these types of limits in slightly different terms. The two different formulations related to weapons described as dangerous and unusual in one case and sometimes as dangerous or unusual in the other instance, see Saul Cornell, *The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities*, 39 FORDHAM URB. L.J. 1695 (2012). It is also possible that the phrase was an example of an archaic grammatical and rhetorical form hendiadys, see Samuel Bray, ‘Necessary AND Proper’ and ‘Cruel AND Unusual’: *Hendiadys in the Constitution*, 102 VIRGINIA L. REV. 687 (2016).

¹⁰ On Founding-era conceptions of liberty, see JOHN J. ZUBLY, *THE LAW OF LIBERTY* (1775). The modern terminology to describe this concept is “ordered liberty.” See *Palko v. Connecticut*, 302 U.S. 319, 325 (1937). For a more recent elaboration of the concept, see generally JAMES E. FLEMING & LINDA C. MCCLAIN, *ORDERED LIBERTY: RIGHTS, RESPONSIBILITIES, AND VIRTUES* (Harvard University Press, 2013). On Justice Cardozo and the ideal of ordered liberty, see *Palko v. Connecticut*, 302 U.S. 319, 325 (1937); John T. Noonan, Jr., *Ordered Liberty: Cardozo and the Constitution*, 1 CARDOZO L. REV. 257 (1979); Jud Campbell, *Judicial Review, and the Enumeration of Rights*, 15 GEO. J.L. & PUB. POL’Y 569 (2017).

¹¹ *Heller*, 554 U.S. at 634–35; William J. Novak, *Common Regulation: Legal Origins of State Power in America*, 45 HASTINGS L.J. 1061, 1081–83 (1994); Christopher Tomlins, *Necessities of State: Police, Sovereignty, and the Constitution*, 20 J. POL’Y HIST. 47 (2008).

regulate their own internal police. Although modern lawyers and jurists are accustomed to thinking of state police power, the Founding generation viewed this concept as a right, not a power.¹² The first state constitutions clearly articulated such a right — including it alongside more familiar rights such as the right to bear arms.¹³ Pennsylvania’s Constitution framed this estimable right succinctly: “That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.” Thus, if Justice Scalia’s rule applies to the scope of the right to bear arms, it must also apply to the scope of the right of the people to regulate their internal police, a point that Chief Justice Roberts and Justice Kavanaugh have each underscored. The history of gun regulation in the decades after the right to bear arms was codified in both the first state constitutions and the federal bill of rights underscores this important point.

11. In the years following the adoption of the Second Amendment and its state analogues, firearm regulation increased. Indeed, the individual states

¹² On the transformation of the Founding era’s ideas about a “police right” into the more familiar concept of “police power,” *See generally* Aaron T. Knapp, *The Judicialization of Police*, 2 *CRITICAL ANALYSIS OF L.* 64 (2015); *see also* MARKUS DIRK DUBBER, *THE POLICE POWER: PATRIARCHY AND THE FOUNDATIONS OF AMERICAN GOVERNMENT* (2005); Christopher Tomlins, *Necessities of State: Police, Sovereignty, and the Constitution*, 20 *J. OF POL’Y HIST.* 47 (2008).

¹³ PA. CONST. of 1776, ch. I, art. III; MD. DECLARATION OF RIGHTS, art. IV (1776); N.C. DECLARATION OF RIGHTS, art. I, § 3 (1776); and VT. DECLARATION OF RIGHTS, art. V (1777).

exercised their police powers to address longstanding issues and novel problems created by firearms in American society. In particular, the states regulated and when appropriate prohibited categories of weapons deemed to be dangerous *or* unusual.

I. THE HISTORICAL INQUIRY REQUIRED BY *BRUEN*, *MCDONALD*, AND *HELLER*

12. The United States Supreme Court’s decisions in *Heller*, *McDonald*¹⁴, and *Bruen* have directed courts to look to text and history for guideposts in evaluating the scope of permissible firearms regulation under the Second Amendment. In another case involving historical determinations, Justice Thomas, the author of the majority opinion in *Bruen*, has noted that judges must avoid approaching history, text, and tradition with an “ahistorical literalism.”¹⁵ Legal texts must not be read in a decontextualized fashion detached from the web of historical meaning that made them comprehensible to Americans living in the past. Instead, understanding the public meaning of constitutional texts requires a solid grasp of the relevant historical contexts.¹⁶

13. Following the mandates set out in *Heller*, *McDonald* and more recently in *Bruen*, history provides essential guideposts in evaluating the scope of

¹⁴ *McDonald v. City of Chicago*, 561 U.S. 742 (2010).

¹⁵ *Franchise Tax Board of California v. Hyatt*, 139 S. Ct. 1485, 1498 (2019) (Thomas, J.) (criticizing “ahistorical literalism”).

¹⁶ See Jonathan Gienapp, *Historicism and Holism: Failures of Originalist Translation*, 84 FORDHAM L. REV. 935 (2015).

permissible regulation under the Second Amendment.¹⁷ Moreover, as *Bruen* makes clear, history neither imposes “a regulatory straightjacket nor a regulatory blank check.”¹⁸ The Court acknowledged that when novel problems created by firearms are issue the analysis must reflect this fact: “other cases implicating unprecedented societal concerns or dramatic technological changes may require a more nuanced approach.” *Bruen* differentiates between cases in which contested regulations are responses to longstanding problems and situations in which modern regulations address novel problems with no clear historical analogues from the Founding era or the era of the Fourteenth Amendment.

14. In the years between *Heller* and *Bruen*, historical scholarship has expanded our understanding of the history of arms regulation in the Anglo-American legal tradition, but much more work needs to be done to fill out this picture.¹⁹ Indeed, such research is still ongoing: new materials continue to emerge; and in the months since *Bruen* was decided, additional evidence about the history of regulation has surfaced and new scholarship interpreting it has appeared in leading law reviews and other scholarly venues.²⁰

¹⁷ *Bruen*, 142 S. Ct. 2111.

¹⁸ *Id.*

¹⁹ Eric M. Ruben & Darrell A. H. Miller, *Preface: The Second Generation of Second Amendment Law & Policy*, 80 L. & CONTEMP. PROBS. 1 (2017).

²⁰ *Symposium — The 2nd Amendment at the Supreme Court: “700 Years Of History” and the Modern Effects of Guns in Public*, 55 U.C. DAVIS L. REV. 2495

15. Justice Kavanaugh underscored a key holding of *Heller* in his *Bruen* concurrence: “Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” Crucially, the Court further noted that “we do think that *Heller* and *McDonald* point toward at least two metrics: how and why the regulations burden a law-abiding citizen’s right to armed self-defense.”²¹

16. One overarching principle regarding firearms regulation does emerge from this period and it reflects not only the common law assumptions familiar to the Founding generation, but it is hard-wired into the Second Amendment itself. As Justice Scalia noted in *Heller*, and Justice Thomas reiterated in *Bruen*, the original Second Amendment was a result of interest balancing undertaken by the people themselves in framing the federal Constitution and the Bill of Rights. Although “free-standing balancing” is precluded by *Heller*, the plain meaning of the text recognizes a role for regulation explicitly and further underscores that actions inimical to a free state fall outside of the scope of the right instantiated in

(2022); NEW HISTORIES OF GUN RIGHTS AND REGULATION: ESSAYS ON THE PLACE OF GUNS IN AMERICAN LAW AND SOCIETY (Joseph Blocher, Jacob D. Charles & Darrell A.H. Miller eds., forthcoming 2023).

²¹ *Bruen*, 142 S. Ct. at 2132–33.

the text.²² Thus, from its outset the Second Amendment recognizes both the right to keep and bear arms and the right of the people to regulate arms to promote the goals of preserving a free state. An exclusive focus on rights and a disparagement of regulation is thus antithetical to the plain meaning of the text of the Second Amendment. Although rights and regulation are often cast as antithetical in the modern gun debate, the Founding generation saw the two goals as complementary. Comparing the language of the Constitution’s first two amendments and their different structures and word choice makes this point crystal clear. The First Amendment prohibits “abridging” the rights it protects. In standard American English in the Founding era, to “abridge” meant to “reduce.” Thus, the First Amendment prohibits a diminishment of the rights it protects. The Second Amendment’s language employs a very different term, requiring that the right to bear arms not be “infringed.”²³ In Founding-era American English, the word “infringement” meant to “violate” or “destroy.” In short, when read with the

²² *Heller*, 554 U.S. at 626–28.

²³ The distinction emerges clearly in a discussion of natural law and the law of nations in an influential treatise on international law much esteemed by the Founding generation: “Princes who infringe the law of nations, commit as great a crime as private people, who violate the law of nature,” J.J. BURLAMAQUI, *THE PRINCIPLES OF NATURAL LAW* (Thomas Nugent trans., 1753) at 201. This book was among those included in the list of important texts Congress needed to procure, *see* Report on Books for Congress, [23 January] 1783,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Madison/01-06-02-0031>.

Founding era’s interpretive assumptions and legal definitions in mind, the two Amendments set up radically different frameworks for evaluating the rights they enshrined in constitutional text. Members of the Founding generation would have understood that the legislature could regulate the *conduct* protected by the Second Amendment and comparable state arms bearing provisions as long such regulations did not destroy the underlying *right*.

17. John Burn, author of an influential eighteenth-century legal dictionary, illustrated the concept of infringement in the context of his discussion of violations of rights protected by the common law. Liberty, according to Burns, was not identical to that “wild and savage liberty” of the state of nature. True liberty, by contrast, only existed when individuals created civil society and enacted laws and regulations that promoted *ordered* liberty.²⁴

18. Similarly, Nathan Bailey’s *Dictionarium Britannicum* (1730) defined “abridge” as to “shorten,” while “infringe” was defined as to “break a law.”²⁵ And his 1763 *New Universal Dictionary* repeats the definition of “abridge” as “shorten” and “infringe” as “to break a law, custom, or privilege.”²⁶ Samuel Johnson’s *Dictionary of the English Language* (1755) defines “infringe” as “to violate; to

²⁴ *Liberty*, A NEW LAW DICTIONARY (1792) See also, Jud Campbell, *Natural Rights, Positive Rights, and the Right to Keep and Bear Arms*, 83 LAW & CONTEMP. PROBS. 31, 32–33 (2020)

²⁵ *Abridge*, DICTIONARIUM BRITANNICUM (1730).

²⁶ *Abridge*, NEW UNIVERSAL DICTIONARY (1763).

break laws or contracts” or “to destroy; to hinder.”²⁷ Johnson’s definition of “abridge” was “to shorten” and “to diminish” or “to deprive of.”²⁸ And Noah Webster’s *An American Dictionary of the English Language* (1828) largely repeats Johnson’s definitions of “infringe” and “abridge.”²⁹ Although today the two terms are conflated by some, the meanings of abridge and infringe were and remain distinct. The Founding generation was far more nuanced in distinguishing between the differences between these two terms.

19. Regulation, including robust laws, were not understood to be an “infringement” of the right to bear arms, but rather the necessary foundation for the proper exercise of that right as required by the concept of ordered liberty.³⁰ As one patriotic revolutionary era orator observed, almost a decade after the adoption of the Constitution: “True liberty consists, not in having *no government*, not in a

²⁷ *Infringe*, DICTIONARY OF THE ENGLISH LANGUAGE (1755).

²⁸ *Abridge*, DICTIONARY OF THE ENGLISH LANGUAGE (1755).

²⁹ *Abridge, Infringe*, AN AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE (1828).

³⁰ Dan Edelstein, *Early-Modern Rights Regimes: A Genealogy of Revolutionary Rights*, 3 CRITICAL ANALYSIS L. 221, 233–34 (2016). See generally GERALD LEONARD & SAUL CORNELL, THE PARTISAN REPUBLIC: DEMOCRACY, EXCLUSION, AND THE FALL OF THE FOUNDERS’ CONSTITUTION, 1780s–1830s, at 2; Victoria Kahn, *Early Modern Rights Talk*, 13 YALE J.L. & HUMAN. 391 (2001) (discussing how the early modern language of rights incorporated aspects of natural rights and other philosophical traditions); Joseph Postell, *Regulation During the American Founding: Achieving Liberalism and Republicanism*, 5 AM. POL. THOUGHT 80 (2016) (examining the importance of regulation to Founding political and constitutional thought).

destitution of all law, but in our having an equal voice in the formation and execution of the laws, according as they effect [*sic*] our persons and property.”³¹

By allowing individuals to participate in politics and enact laws aimed at promoting the health, safety, and well-being of the people, liberty flourished.³²

20. The key insight derived from taking the Founding era conception of rights seriously and applying the original understanding of the Founding era’s conception of liberty is the recognition that regulation and liberty were not antithetical to one another. The inclusion of rights guarantees in constitutional texts was not meant to place them beyond the scope of legislative control. “The point of retaining natural rights,” originalist scholar Jud Campbell reminds us “was not to make certain aspects of natural liberty immune from governmental regulation. Rather, retained natural rights were aspects of natural liberty that could be restricted only with just cause and only with consent of the body politic.”³³

³¹ Joseph Russell, *An Oration; Pronounced in Princeton, Massachusetts, on the Anniversary of American Independence, July 4, 1799*, at 7 (July 4, 1799), (text available in the Evans Early American Imprint Collection) (emphasis in original).

³² See generally QUENTIN SKINNER, *LIBERTY BEFORE LIBERALISM* (1998) (examining neo-Roman theories of free citizens and how it impacted the development of political theory in England); *THE NATURE OF RIGHTS AT THE AMERICAN FOUNDING AND BEYOND* (Barry Alan Shain ed., 2007) (discussing how the Founding generation approached rights, including the republican model of protecting rights by representation).

³³ Jud Campbell, *The Invention of First Amendment Federalism*, 97 *TEX. L. REV.* 517, 527 (2019) (emphasis in original). See generally Saul Cornell, *Half Cocked: The Persistence of Anachronism and Presentism in the Academic Debate*

Rather than limit rights, regulation was the essential means of preserving rights, including self-defense.³⁴ In fact, without robust regulation of arms, it would have been impossible to implement the Second Amendment and its state analogues. Mustering the militia required keeping track of who had weapons and included the authority to inspect those weapons and fine individuals who failed to store them safely and keep them in good working order.³⁵ The individual states also imposed loyalty oaths, disarming those who refused to take such oaths. No state imposed a similar oath as pre-requisite to the exercise of First Amendment-type liberties. Thus, some forms of prior restraint, impermissible in the case of expressive freedoms protected by the First Amendment or comparable state provisions, were

Over the Second Amendment, 106 J. OF CRIM. L. AND CRIMINOLOGY 203, 206 (2016) *s* (noting that the Second Amendment was not understood in terms of the simple dichotomies that have shaped modern debate over the right to bear arms).

³⁴ See Jud Campbell, *Judicial Review and the Enumeration of Rights*, 15 GEO. J.L. & PUB. POL'Y 569, 576–77 (2017). Campbell's work is paradigm-shifting, and it renders Justice Scalia's unsubstantiated claim in *Heller* that the inclusion of the Second Amendment in the Bill of Rights placed certain forms of regulation out of bounds totally anachronistic. This claim has no foundation in Founding-era constitutional thought, but reflects the contentious modern debate between Justice Black and Justice Frankfurter over judicial balancing; on Scalia's debt to this modern debate, *see generally* SAUL CORNELL, *THE POLICE POWER AND THE AUTHORITY TO REGULATE FIREARMS IN EARLY AMERICA* 1–2 (2021), https://www.brennancenter.org/sites/default/files/2021-06/Cornell_final.pdf [<https://perma.cc/J6QD-4YXG>] and Joseph Blocher, *Response: Rights as Trumps of What?*, 132 HARV. L. REV. 120, 123 (2019).

³⁵ H. RICHARD UVILLER & WILLIAM G. MERKEL, *THE MILITIA AND THE RIGHT TO ARMS, OR, HOW THE SECOND AMENDMENT FELL SILENT* 150 (2002).

understood by the Founding generation to be perfectly consistent with the constitutional right to keep and bear arms.³⁶

21. In keeping with the clear public meaning of the Second Amendment's text and comparable state provisions, early American governments enacted laws to preserve the rights of law-abiding citizens to keep and bear arms and promote the equally vital goals of promoting public safety. As long as such laws did not destroy the right of self-defense, the individual states enjoyed broad latitude to regulate arms.³⁷

II. FROM MUSKETS TO PISTOLS: CHANGE AND CONTINUITY IN EARLY AMERICAN FIREARMS REGULATION

22. Guns have been regulated from the dawn of American history.³⁸ At the time *Heller* was decided, there was little scholarship on the history of gun regulation and a paucity of quality scholarship on early American gun culture.³⁹ Fortunately, a burgeoning body of scholarship has illuminated both topics,

³⁶ Saul Cornell, *Commonplace or Anachronism: The Standard Model, the Second Amendment, and the Problem of History in Contemporary Constitutional Theory* 16 *CONSTITUTIONAL COMMENTARY* 988 (1999).

³⁷ Saul Cornell and Nathan DeDino, *A Well Regulated Right: The Early American Origins of Gun Control*, 73 *FORDHAM L. REV.* 487 (2004).

³⁸ Robert J. Spitzer, *Gun Law History in the United States and Second Amendment Rights*, 80 *L. & CONTEMP. PROBS.* 55 (2017).

³⁹ *Id.*

deepening scholarly understanding of the relevant contexts needed to implement *Bruen*'s framework.⁴⁰

23. The common law that Americans inherited from England always acknowledged that the right of self-defense was not unlimited but existed within a well-delineated jurisprudential framework. The entire body of the common law was designed to preserve the peace.⁴¹ Statutory law, both in England and America functioned to further secure the peace and public safety. Given these indisputable facts, the Supreme Court correctly noted, the right to keep and bear arms was never understood to prevent government from enacting a broad range of regulations to promote the peace and maintain public safety.⁴² To deny such an authority would be to convert the Constitution into a suicide pact and not a charter of government. The Second Amendment and its state analogues were understood to enhance the concept of ordered liberty, not undermine it.⁴³

24. *Bruen*'s methodology requires judges to distinguish between the relevant history necessary to understand early American constitutional texts and a

⁴⁰ Ruben & Miller, *supra* note 19, at 1.

⁴¹ Saul Cornell, *The Right to Keep and Carry Arms in Anglo-American Law: Preserving Liberty and Keeping the Peace*, 80 L. & CONTEMP. PROBS. 11 (2017).

⁴² *McDonald*, 561 U.S. at 785 (noting “[s]tate and local experimentation with reasonable firearms regulations will continue under the Second Amendment”).

⁴³ See generally Saul Cornell, *The Long Arc Of Arms Regulation In Public: From Surety To Permitting*, 1328-1928, 55 U.C. DAVIS L. REV. 2547 (2022)

series of myths about guns and regulation that were created by later generations to sell novels, movies, and guns themselves.⁴⁴ Unfortunately, many of these myths continue to cloud legal discussions of American gun policy and Second Amendment jurisprudence.⁴⁵

25. Although it is hard for many modern Americans to grasp, there was no comparable societal ill to the modern gun violence problem for Americans to solve in the era of the Second Amendment. A combination of factors, including the nature of firearms technology and the realities of living life in small, face-to-face, and mostly homogenous rural communities that typified many parts of early America, militated against the development of such a problem. In contrast to modern America, homicide was not the problem that government firearm policy needed to address at the time of the Second Amendment.⁴⁶

26. The surviving data from New England is particularly rich and has allowed scholars to formulate a much better understanding of the dynamics of early American gun policy and relate it to early American gun culture.⁴⁷ Levels of

⁴⁴ PAMELA HAAG, *THE GUNNING OF AMERICA: BUSINESS AND THE MAKING OF AMERICAN GUN CULTURE* (2016).

⁴⁵ RICHARD SLOTKIN, *GUNFIGHTER NATION: THE MYTH OF THE FRONTIER IN TWENTIETH-CENTURY AMERICA* (1993); JOAN BURBICK, *GUN SHOW NATION: GUN CULTURE AND AMERICAN DEMOCRACY* (2006).

⁴⁶ RANDOLPH ROTH, *AMERICAN HOMICIDE* 56, 315 (2009).

⁴⁷ It is important to recognize that there were profound regional differences in early America. *See* JACK P. GREENE, *PURSUIITS OF HAPPINESS: THE SOCIAL*

gun violence among those of white European ancestry in the era of the Second Amendment were relatively low compared to modern America. These low levels of violence among persons of European ancestry contrasted with the high levels of violence involving the tribal populations of the region. The data presented in Figure 1 is based on the pioneering research of Ohio State historian Randolph Roth. It captures one of the essential facts necessary to understand what fears motivated American gun policy in the era of the Second Amendment. The pressing problem Americans faced at the time of the Second Amendment was that citizens were reluctant to purchase military-style weapons which were relatively expensive and had little utility in a rural society. Americans were far better armed than their British ancestors, but the guns most Americans owned and desired were those most useful for life in an agrarian society: fowling pieces and light hunting muskets.⁴⁸ Killing pests and hunting birds were the main concern of farmers, and their choice of firearm reflected these basic facts of life. Nobody bayoneted turkeys, and pistols were of limited utility for anyone outside of a small elite group of wealthy,

DEVELOPMENT OF EARLY MODERN BRITISH COLONIES AND THE FORMATION OF AMERICAN CULTURE (1988). These differences also had important consequences for the evolution of American law. *See generally* David Thomas Konig, *Regionalism in Early American Law*, in 1 THE CAMBRIDGE HISTORY OF LAW IN AMERICA 144 (Michael Grossberg & Christopher Tomlins eds., 2008).

⁴⁸ Kevin M. Sweeney, *Firearms Ownership and Militias in Seventeenth and Eighteenth Century England and America*, in A RIGHT TO BEAR ARMS?: THE CONTESTED ROLE OF HISTORY IN CONTEMPORARY DEBATES ON THE SECOND AMENDMENT (Jennifer Tucker et al. eds., 2019).

powerful, and influential men who needed these weapons if they were forced to face an opponent on the field of honor in a duel, as the tragic fate of Alexander Hamilton so vividly illustrates.⁴⁹

27. Limits in Founding-era firearms technology also militated against the use of guns as effective tools of interpersonal violence in this period. Eighteenth-century muzzle-loading weapons, especially muskets, took too long to load and were therefore seldom used to commit crimes. Nor was keeping guns loaded a viable option because the black powder used in these weapons was not only corrosive, but it attracted moisture like a sponge. Indeed, the iconic image of rifles and muskets hung over the mantle place in early American homes was not primarily a function of aesthetics or the potent symbolism of the hearth, as many today assume. As historian Roth notes: “black powder’s hygroscopic, it absorbs water, it corrodes your barrel, you can’t keep it loaded. Why do they always show the gun over the fireplace? Because that’s the warmest, driest place in the house.”⁵⁰ Similar problems also limited the utility of muzzle-loading pistols as practical tools for self-defense or criminal offenses. Indeed, at the time of the

⁴⁹ Joanne B. Freeman, *AFFAIRS OF HONOR: NATIONAL POLITICS IN THE NEW REPUBLIC* (2001).

⁵⁰ Randolph Roth, Transcript: *Why is the United States the Most Homicidal in the Affluent World*, NATIONAL INSTITUTE OF JUSTICE (Dec. 1, 2013), <https://nij.ojp.gov/media/video/24061#transcript--0>.

Second Amendment, over 90% of the weapons owned by Americans were long guns, not pistols.⁵¹

Figure 1

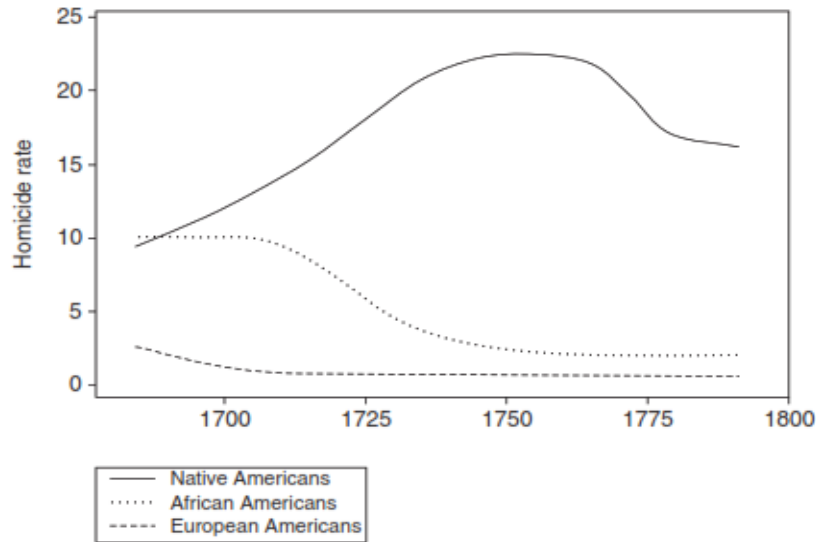


Figure 2.3 Unrelated-adult homicide rates in New England by race, 1677–1797 (per 100,000 persons per year).

28. As Roth’s data makes clear, there was not a serious homicide problem looming over debates about the Second Amendment. Nor were guns the primary weapon of choice for those with evil intent during this period.⁵² The skill and time required to load and fire flintlock muzzle loading black powder weapons meant that they were less likely to be used in crimes of passion. The preference for storing them unloaded also meant they posed fewer dangers to children from accidental discharge.

⁵¹ Sweeney, *supra* note 48.

⁵² HAAG, *supra* note 44.

29. The Founding generation did not confront a gun violence problem similar in nature or scope to the ills that plague modern America. The Founding generation faced a different, but no less serious problem: American reluctance to purchase the type of weapons needed to effectively arm their militias. Despite repeated efforts to exhort and legislate to promote this goal, many states were failing to adequately equip the militia with suitable firearms that could withstand the rigors of the type of close-quarters hand-to-hand combat required by military tactics. A gun had to be able to receive a bayonet and serve as a bludgeon if necessary. The lightweight guns favored by the overwhelmingly rural population of early America were well designed to put food on the table and rid fields of vermin, but were not well suited to eighteenth-century ground wars. When the U.S. government surveyed the state of the militia's preparedness shortly after Jefferson took office in 1800, the problem had not been solved. Although Massachusetts boasted above 80% of its militia armed with military quality weapons, many of the southern states lagged far behind, with Virginia and North Carolina hovering at about less than half the militia properly armed.⁵³

30. Government policy, both at the state and federal level, responded to these realities by requiring a subset of white citizens, those capable of bearing arms, to acquire at their own expense a military-quality musket and participate in

⁵³ Sweeney, *supra* note 48.

mandatory training and other martial activities. Gun policy in the Founding era reflected these realities, and accordingly, one must approach any analogies drawn from this period's regulations with some caution when applying them to a modern heterogeneous industrial society capable of producing a bewildering assortment of firearms whose lethality would have been almost unimaginable to the Founding generation.⁵⁴ Put another way, laws created for a society without much of a gun violence problem enacted at a time of relative gun scarcity, at least in terms of militia weapons, have limited value in illuminating the challenges Americans face today.

31. Another aspect of Founding era gun policy that needs to be acknowledged is the active role that government took in encouraging the manufacturing of arms. The American firearms industry in its infancy was largely dependent on government contracts and subsidies. Thus, government had a vested interest in determining what types of weapons would be produced.⁵⁵

32. Government regulation of the firearms industry also included the authority to inspect the manufactures of weapons and impose safety standards on

⁵⁴ Darrell A. H. Miller & Jennifer Tucker, *Common Use, Lineage, and Lethality*, 55 U.C. DAVIS L. REV. 2495 (2022).

⁵⁵ Lindsay Schakenbach Regele, *A Different Constitutionality for Gun Regulation*, 46 HASTINGS CONST. L.Q. 523, 524 (2019); Andrew J. B. Fagal, *American Arms Manufacturing and the Onset of the War of 1812*, 87 NEW ENG. Q. 526, 526 (2014).

the industry.⁵⁶ Western Massachusetts emerged as the leading small arms producer in America on the eve of the War of 1812.⁵⁷ The federal armory in Springfield, Massachusetts began producing muskets in 1794 and took a leading role, serving as a spur to technological innovation in the region. In 1805 Massachusetts enacted a law requiring all guns to be inspected. The law also required all guns sold to be marked and stamped by an inspector.

33. Maine imposed a similar requirement on firearms in 1821 and continued the practice through the end of the century.⁵⁸ These laws persisted throughout the nineteenth century.⁵⁹

⁵⁶ 1814 Mass. Acts 464, An Act In Addition To An Act, Entitled “An Act To Provide For The Proof Of Fire Arms, Manufactured Within This Commonwealth,” ch. 192, § 1 (“All musket barrels and pistol barrels, manufactured within this Commonwealth, shall, before the same shall be sold, and before the same shall be stocked, be proved by the person appointed according to the provisions of an act”); § 2 (“That if any person or persons, from and after the passing of this act, shall manufacture, within this Commonwealth, any musket or pistol, or shall sell and deliver, or shall knowingly purchase any musket or pistol, without having the barrels first proved according to the provisions of the first section of this act, marked and stamped according the provisions of the first section of the act.”)

⁵⁷ Lindsay Schakenbach Regele, *MANUFACTURING ADVANTAGE: WAR, THE STATE, AND THE ORIGINS OF AMERICAN INDUSTRY, 1776–1848* (2019) at 63-65.

⁵⁸ The Revised Statutes of the State of Maine, Passed January 25, 1871 326 (1871).

⁵⁹ 1 The General Statutes of the Commonwealth of Massachusetts: Enacted December 28, 1859, to Take Effect June 1, 1860 (2d ed., William A. Richardson & George P. Sanger, eds.) 255 (1873).

34. The federal armory in Springfield, Massachusetts began producing muskets in 1794 and Western Massachusetts emerged as the leading small arms producer in America on the eve of the War of 1812. The Springfield armory, a federal entity, was governed by federal law (not Massachusetts law) but it nonetheless extensively scrutinized and inspected all arms made at its facilities and any private gunsmiths under government contract. This feature meant that such weapons were highly valued and were much sought after when any government surplus guns were sold to consumers.⁶⁰

35. In short, the market for firearms in early America shared very few features with the contemporary world of firearms commerce. Gun shows, gun supermarkets, and internet sales are a few of the many ways Americans acquire firearms today. Although estimates vary, there are now more guns than people in contemporary America. Today's Americans are awash in sea of guns and have a myriad of choices when they wish to acquire a firearm. Early America firearms production in the era of the Second Amendment, in contrast, was dominated by artisan production. Local gun smiths, not big box stores such as Walmart, were responsible for selling firearms. Most sellers and buyers of firearms in early

⁶⁰ Lindsay Schakenbach Regele, *MANUFACTURING ADVANTAGE: WAR, THE STATE, AND THE ORIGINS OF AMERICAN INDUSTRY, 1776–1848* (2019) at 63-65.

America were members of the same community and needed to maintain an ongoing relationship with their local gun smith to keep their guns in good working order. These informal ties of kin and community that defined the close-knit communities of early American meant that individuals were effectively vetted and monitored by their neighbors in ways that share little with the largely anonymous world of modern firearms commerce. In addition, early American firearms were in need of frequent repair, so much so that many gunsmiths devoted most of their time to repair, not the manufacture or assembly of arms.⁶¹

36. Although much of the supervision of this market was achieved through these informal means, governments in early American did regulate the sale of firearms and ammunition in multiple ways.⁶²

37. The calculus of individual self-defense changed dramatically in the decades following the adoption of the Second Amendment.⁶³ The early decades of the nineteenth century witnessed a revolution in the production and marketing of guns.⁶⁴ The same technological changes and economic forces that made wooden

⁶¹ Scott Paul Gordon, *The Ambitions of William Henry*, 136 PENNSYLVANIA MAGAZINE OF HISTORY AND BIOGRAPHY 253 (2012). Pennsylvania was one of the main regions of early American gunsmithing, M.L. Brown, FIREARMS IN COLONIAL AMERICA: THE IMPACT ON HISTORY AND TECHNOLOGY, 1492-1792 (1980).

⁶² *Supra* note 37.

⁶³ Cornell, *supra* note 3, at 745.

⁶⁴ Lindsay Schakenbach Regele, *Industrial Manifest Destiny: American*

clocks and other consumer goods such as Currier and Ives prints common items in many homes also transformed American gun culture.⁶⁵ These same changes also made handguns and a gruesome assortment of deadly knives, including the dreaded Bowie knife, more common. The culmination of this gradual evolution in both firearms and ammunition technology was the development of Samuel Colt's pistols around the time of the Mexican-American War.⁶⁶ Economic transformation was accompanied by a host of profound social changes that gave rise to America's first gun violence crisis. As cheaper, more dependable, and easily concealable handguns proliferated in large numbers, Americans, particularly southerners, began sporting them with alarming regularity. The change in behavior was most noticeable in the case of handguns.⁶⁷

38. The response of states to the emergence of new firearms that threatened the peace was a plethora of new laws. In sort, when faced with changes in technology, consumer behavior, and faced with novel threats to public safety, the individual states enacted laws to address these problems. In every instance

Firearms Manufacturing and Antebellum Expansion, 93 BUS. HIST. REV. 57 (2018).

⁶⁵ Sean Wilentz, *Society, Politics, and the Market Revolution*, in THE NEW AMERICAN HISTORY (Eric Foner ed., 1990).

⁶⁶ WILLIAM N. HOSLEY, COLT: THE MAKING OF AN AMERICAN LEGEND (1st ed. 1996).

⁶⁷ On southern gun rights exceptionalism, see Eric M. Ruben & Saul Cornell, *Firearms Regionalism and Public Carry: Placing Southern Antebellum Case Law in Context*, 125 YALE L.J. F. 121, 124-128 (2015).

apart from a few outlier cases in the Slave South, courts upheld such limits on the unfettered exercise a right to keep and bear arms. The primary limit identified by courts in evaluating such laws was the threshold question about abridgement: did the law negate the ability to act in self-defense.⁶⁸ In keeping with the clear imperative hard-wired into the Second Amendment, states singled out weapons that posed a particular danger for regulation or prohibition. Responding in this fashion was entirely consistent with Founding-era conceptions of ordered liberty and the Second Amendment.

39. Not all guns were treated equally by the law in early America. Some guns were given heightened constitutional protection and others were treated as ordinary property subject to the full force of state police power authority.⁶⁹ The people themselves acting through their legislatures retained the fundamental right to determine which dangerous weapons were exempted from the full protection of the constitutional right to keep and bear arms. The antebellum case law examined by *Heller* makes clear that the metric used by courts to evaluate laws was simple and reflected the concept of infringement. Laws that undermined the right of self-

⁶⁸ *Id.*

⁶⁹ Saul Cornell, *History and Tradition or Fantasy and Fiction: Which Version of the Past Will the Supreme Court Choose in NYSRPA v. Bruen?*, 49 HASTINGS CONST. L.Q. 145 (2022).

defense were generally struck down, regulations that limited but did not destroy the right were upheld.⁷⁰

40. Some states opted to tax some common weapons to discourage their proliferation.⁷¹ In particular, not all handguns were created equal in the eyes of the law. During Reconstruction a number of states prohibited guns that were deemed to pose a particular risk because they were easily concealed.⁷²

III. THE POLICE POWER AND FIREARMS REGULATION

41. The 1776 Pennsylvania Constitution, the first revolutionary constitution to assert a right to bear arms, preceded the assertion of this right by affirming a more basic rights claim: “That the people of this State have the sole,

⁷⁰ The best illustration of this rule is *See State v. Reid*, 1 Ala. 612, 612 (1840).

⁷¹ 1858-1859 N.C. Sess. Laws 34-36, Pub. Laws, An Act Entitled Revenue, chap. 25, § 27, pt. 15. (“The following subjects shall be annually listed, and be taxed the amounts specified: . . . Every dirk, bowie-knife, pistol, sword-cane, dirk-cane and rifle cane, used or worn about the person of any one at any time during the year, one dollar and twenty-five cents. Arms used for mustering shall be exempt from taxation.”). Anderson Hutchinson, *Code of Mississippi: Being an Analytical Compilation of the Public and General Statutes of the Territory and State, with Tabular References to the Local and Private Acts, from 1798 to 1848: With the National and State Constitutions, Cessions of the Country by the Choctaw and Chickasaw Indians, and Acts of Congress for the Survey and Sale of the Lands, and Granting Donations Thereof to the State* (1848) at 182. *See also* 1866 Ga. Law 27, An Act to authorize the Justices of the Inferior Courts of Camden, Glynn and Effingham counties to levy a special tax for county purposes, and to regulate the same.

⁷² 1879 Tenn. Pub. Acts 135-36, An Act to Prevent the Sale of Pistols, chap. 96, § 1; 1881 Ark. Acts 192, An Act to Preserve the Public Peace and Prevent Crime, ch. XCVI (96), § 3.

exclusive and inherent right of governing and regulating the internal police of the same.”⁷³ The phrase “internal police” had already become common, particularly in laws establishing towns and defining the scope of their legislative authority.⁷⁴ By the early nineteenth century, the term “police” was a fixture in American law.⁷⁵ Thus, an 1832 American encyclopedia confidently asserted that police, “in the common acceptance of the word, in the U. States and England, is applied to the municipal rules, institutions and officers provided for maintaining order, cleanliness &c.”⁷⁶ The Founding era’s conception of a basic police right located in legislatures was transmuted during the Marshall Court’s era into the judicial doctrine of the police power and would become a fixture in American law.

42. The power to regulate firearms and gunpowder has always been central to the police power and historically was shared among states, local

⁷³ PA. CONST. OF 1776, Ch. I, art iii.

⁷⁴ For other examples of constitutional language similar to Pennsylvania’s provision, N.C. CONST. OF 1776, DECLARATION OF RIGHTS, art. II; VT. CONST. OF 1777, DECLARATION OF RIGHTS, art. IV. For other examples of this usage, *see* An Act Incorporating the residents residing within limits therein mentioned, *in* 2 NEW YORK LAWS 158 (1785) (establishing the town of Hudson, NY); An Act to incorporate the Town of Marietta, *in* LAWS PASSED IN THE TERRITORY NORTHWEST OF THE RIVER OHIO 29 (1791). For later examples, *see* 1 STATUTES OF THE STATE OF NEW JERSEY 561 (rev. ed. 1847); 1 SUPPLEMENTS TO THE REVISED STATUTES. LAWS OF THE COMMONWEALTH OF MASSACHUSETTS, PASSED SUBSEQUENTLY TO THE REVISED STATUTES: 1836 TO 1849, INCLUSIVE 413 (Theron Metcalf & Luther S. Cushing, eds. 1849).

⁷⁵ ERNST FREUND, THE POLICE POWER: PUBLIC POLICY AND CONSTITUTIONAL RIGHTS 2, n.2 (1904).

⁷⁶ 10 ENCYCLOPEDIA AMERICANA 214 new edition (Francis Lieber ed.).

municipalities, and the federal government when it was legislating conduct on federal land and in buildings.⁷⁷ The adoption of the Constitution and the Bill of Rights did not deprive states of their police powers. Indeed, if it had, the Constitution would not have been ratified and there would be no Second Amendment today. Ratification was only possible because Federalists offered Anti-Federalists strong assurances that nothing about the new government threatened the traditional scope of the individual state’s police power authority, including the authority to regulate guns and gunpowder.⁷⁸

43. Federalists and Anti-Federalists bitterly disagreed over many legal issues, but this one point of accord was incontrovertible. Brutus, a leading Anti-Federalist, emphatically declared that “[I]t ought to be left to the state governments to provide for the protection and defence [sic]of the citizen against the hand of private violence, and the wrongs done or attempted by individuals to each other”⁷⁹ Federalist Tench Coxe concurred, asserting that: “[t]he states will regulate and administer the criminal law, exclusively of Congress.” States, he assured the American people during ratification, would continue to legislate on all matters

⁷⁷ Harry N. Scheiber, *State Police Power*, in 4 ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 1744 (Leonard W. Levy et al. eds., 1986).

⁷⁸ Saul Cornell, *THE OTHER FOUNDERS: ANTIFEDERALISM AND THE DISSENTING TRADITION IN AMERICA, 1788-1828* (1999).

⁷⁹ Brutus, *Essays of Brutus VII*, reprinted in 2 THE COMPLETE ANTIFEDERALIST 358, 400–05 (Herbert J. Storing ed., 1981).

related to the police power “such as unlicensed public houses, nuisances, and many other things of the like nature.”⁸⁰ State police power authority was at its pinnacle in matters relating to guns or gunpowder.⁸¹

44. Every aspect of the manufacture, sale, and storage of gunpowder was regulated. Firearms were also subject to a wide range of regulations, including laws pertaining to the manufacture, sale, and storage of weapons.⁸²

45. Thus, Massachusetts enacted a law that prohibited storing a loaded weapon in a home, a firearms safety law that recognized that the unintended discharge of firearms posed a serious threat to life and limb.⁸³ New York City even granted broad power to the government to search for gunpowder and transfer powder to the public magazine for safe storage:

it shall and may be lawful for the mayor or recorder, or any two Alderman of the said city, upon application made by any inhabitant or inhabitants of the said city, and upon his or their making oath of reasonable cause of suspicion (of the sufficiency of which the said mayor or recorder, or Aldermen, is and are to be the judge or judges) to issue his or their warrant or warrants, under his or their hand and

⁸⁰ Tench Coxe, A Freeman, *Pa. Gazette*, Jan. 23, 1788, reprinted in FRIENDS OF THE CONSTITUTION: WRITINGS OF THE “OTHER” FEDERALISTS 82 (Colleen A. Sheehan & Gary L. McDowell eds., 1998).

⁸¹ CORNELL, *supra* note 33.

⁸² Cornell and DeDino, *supra* note 37; public carry by contrast was limited by common law and criminal statutes, see, Cornell, *supra* note 43.

⁸³ Act of Mar. 1, 1783, ch. XIII, 1783 Mass. Acts 37, An Act in Addition to the Several Acts Already Made for the Prudent Storage of Gun Powder within the Town of Boston, § 2.

seal, or hands and seals for searching for such gun powder, in the day time, in any building or place whatsoever.⁸⁴

46. The power to regulate firearms and gunpowder was therefore at the very core of the police power and inheres in both states and local municipalities. The application of the police power to firearms and ammunition was singled out as the quintessential example of state police power by Chief Justice John Marshall in his 1827 discussion of laws regulating gun powder in *Brown v. Maryland*.⁸⁵ This was so even though gunpowder was essential to the operation of firearms at that time and gun powder regulations necessarily affected the ability of gun owners to use firearms for self-defense, both inside the home and outside.

47. A slow process of judicializing this concept of police, transforming the Founding era's idea of a "police right" into a judicially enforceable concept of the "police power" occurred beginning with the Marshall Court and continuing with the Taney Court.⁸⁶

⁸⁴ An Act to Prevent the Storing of Gun Powder, within in Certain Parts of New York City, LAWS OF THE STATE OF NEW-YORK, COMPRISING THE CONSTITUTION, AND THE ACTS OF THE LEGISLATURE, SINCE THE REVOLUTION, FROM THE FIRST TO THE FIFTEENTH SESSION, INCLUSIVE 191-2 (Thomas Greenleaf, ed., 1792).

⁸⁵ 25 U.S. (12 Wheat.) 419, 442-43 (1827) ("The power to direct the removal of gunpowder is a branch of the police power").

⁸⁶ Eras of Supreme Court history are typically defined by the tenure of the Chief Justice. The Marshall Court Period covered the years 1801-1835. For a brief overview, see "The Marshall Court, 1801-1835", SUPREME COURT HISTORICAL SOCIETY (last visited Oct. 5, 2022), <https://supremecourthistory.org/history-of-the->

48. Nor was Chief Justice John Marshall unique in highlighting the centrality of this idea to American law.⁸⁷ The ubiquity of the police power framework for evaluating the constitutionality of legislation regarding firearms reflected the centrality of this approach to nearly every question of municipal legislation touching health or public safety in early America.⁸⁸ Massachusetts Judge Lemuel Shaw, one of the most celebrated state jurists of the pre-Civil War era elaborated this point in his influential 1851 opinion in *Commonwealth v. Alger*, a decision that became a foundational text for lawyers, judges, and legislators looking for guidance on the meaning and scope of the police power. Shaw described the police power in the following manner:

[court-history-of-the-courts/history-of-the-court-history-of-the-courts-the-marshall-court-1801-1835/](https://supremecourthistory.org/history-of-the-court-history-of-the-courts-the-marshall-court-1801-1835/). The Taney Court period covered the years 1836-1864. See “The Taney Court, 1836-1864”, SUPREME COURT HISTORICAL SOCIETY (last visited Oct. 5, 2022), <https://supremecourthistory.org/history-of-the-court-history-of-the-courts/history-of-the-courts-history-of-the-courts-the-taney-court-1836-1864/>.

⁸⁷ In the extensive notes he added as editor of the 12th edition of James Kent’s classic *Commentaries on American Law*, Oliver Wendell Holmes, Jr., wrote that regulation of firearms was the *locus classicus* of the police power. See 2 JAMES KENT COMMENTARIES ON AMERICAN LAW (340) 464 n.2 (Oliver Wendell Holmes, Jr., ed. 12 ed. 1873).

⁸⁸ FREUND, *supra* note 75, at 2, n.2 (1904). WILLIAM J. NOVAK, *THE PEOPLE’S WELFARE: LAW AND REGULATION IN NINETEENTH-CENTURY AMERICA* (1996); Christopher Tomlins, *To Improve the State and Condition of Man: The Power to Police and the History of American Governance*, 53 *BUFF. L. REV.* 1215 (2005); DUBBER, *supra* note 12; GARY GERSTLE, *LIBERTY AND COERCION: THE PARADOX OF AMERICAN GOVERNMENT, FROM THE FOUNDING TO THE PRESENT* (Princeton Univ. Press, 2015).

[T]he power vested in the legislature by the constitution, to make, ordain and establish all manner of wholesome and reasonable laws, statutes and ordinances, either with penalties or without, not repugnant to the constitution, as they shall judge to be for the good and welfare of the commonwealth, and of the subjects of the same. It is much easier to perceive and realize the existence and sources of this power, than to mark its boundaries, or prescribe limits to its exercise. There are many cases in which such a power is exercised by all well-ordered governments, and where its fitness is so obvious, that all well regulated minds will regard it as reasonable. Such are the laws to prohibit the use of warehouses for the storage of gunpowder.⁸⁹

49. In short, there was unanimous agreement among leading antebellum jurists, at both the federal and state level, that the regulation of arms and gunpowder was at the core of the police power enjoyed by legislatures. Indeed, the scope of government power to regulate, prohibit, and inspect gunpowder has been among the most far reaching of any exercise of the police power throughout American history.⁹⁰ A Maine law enacted in 1821 authorized town officials to enter any building in town to search for gunpowder:

Be it further enacted, That it shall, and may be lawful for any one or more of the selectmen of any town to enter any building, or other place, in such town, to search for gun powder, which they may have reason to suppose to be concealed or kept, contrary to the rules and regulations which shall be established in such town, according to the

⁸⁹ *Commonwealth v. Alger*, 61 Mass. (7 Cush.) 53 (1851). For another good discussion of how state jurisprudence treated the concept, see *Thorpe v. Rutland*, 27 Vt. 140, 149 (1855).

⁹⁰ CORNELL, THE POLICE POWER, *supra* note 34.

provisions of this Act, first having obtained a search warrant therefore according to law.⁹¹

50. No jurisdiction enumerated the full contours of the police power they possessed in a single text or in a single statute or ordinance. Rather, it was well understood that the exercise of this power would need to adapt to changing circumstances and new challenges as they emerged. This conception of law was familiar to most early American lawyers and judges who had been schooled in common law modes of thinking and analysis.⁹² Throughout the long sweep of Anglo-American legal history, government applications of the police power were marked by flexibility, allowing local communities to adapt to changing circumstances and craft appropriate legislation to deal with the shifting challenges they faced.⁹³ This vision of the police power was articulated forcefully by the Supreme Court in the License Cases when Justice McClean wrote this about the scope of state police power:

It is not susceptible of an exact limitation, but must be exercised under the changing exigencies of society. In the progress of population, of wealth, and of civilization, new and vicious indulgences spring up, which require restraints that can only be imposed by new legislative power. When this power shall be exerted, how far it shall be carried, and

⁹¹ 1821 Me. Laws 98, An Act for the Prevention of Damage by Fire, and the Safe Keeping of Gun Powder, chap. 25, § 5.

⁹² KUNAL M. PARKER, COMMON LAW HISTORY, AND DEMOCRACY IN AMERICA, 190-1900: LEGAL THOUGHT BEFORE MODERNISM (2013).

⁹³ William J. Novak, *A State of Legislatures*, 40 POLITY 340 (2008).

where it shall cease, must mainly depend upon the evil to be remedied.⁹⁴

51. One of the most important early American gun-related cases discussed in *Heller*, *State v. Reid*, offers an excellent illustration of the way police power jurisprudence was used by antebellum judges to adjudicate claims about gun rights and the right of the people to regulate.⁹⁵ The case is a classic example of antebellum police power jurisprudence. The Supreme Court of Alabama evaluated the statute by focusing on the scope of state police power authority over guns. “The terms in which this provision is phrased,” the court noted, “leave with the Legislature the authority to adopt such regulations of police, as may be dictated by the safety of the people and the advancement of public morals.”⁹⁶ In the court’s view, the regulation of arms was at the very core of state police power.⁹⁷ The judicial determination was straight forward: was the challenged law a legitimate exercise of the police power or not?

IV. RECONSTRUCTION AND THE EXPANSION OF STATE POLICE POWER TO REGULATE FIREARMS (1863-1877)

⁹⁴ *License Cases (Thurlow v. Massachusetts; Fletcher v. Rhode Island; Peirce v. New Hampshire)*, 5 How. (46 U.S.) 504, 592 (1847).

⁹⁵ *See State v. Reid*, 1 Ala. 612, 612 (1840).

⁹⁶ *Id.* at 616.

⁹⁷ Apart from rare outlier decisions, such as *Bliss v. Commonwealth*, 12 Ky. (2 Litt.) 90, 92 (1822) courts employed a police power framework to adjudicate claims about the scope of state power to regulate arms. For a useful discussion of *Bliss* in terms of the police power, *see* FREUND, *supra* note 66, at 91.

52. Founding-era constitutions treated the right of the people to regulate their internal police separately from the equally important right of the people to bear arms. These two rights were separate in the Founding era but were mutually reinforcing: both rights were exercised in a manner that furthered the goal of ordered liberty. Reconstruction-era constitutions adopted a new textual formulation of the connection between these two formerly distinct rights, fusing the two together as one single constitutional principle. This change reflected two profound transformations in American politics and law between 1776 and 1868. First, the judicial concept of police power gradually usurped the older notion of a police right grounded in the idea of popular sovereignty. As a result, state constitutions no longer included positive affirmations of a police right. Secondly, the constitutional “mischief to be remedied” had changed as well.⁹⁸ Constitution writers in the era of the American Revolution feared powerful standing armies and

⁹⁸ The mischief rule was first advanced in *Heydon’s Case*, (1584) 76 Eng. Rep. 637 (KB) — the legal principle that the meaning of a legal text was shaped by an understanding of the state of the common law prior to its enactment and the mischief that the common law had failed to address and legislation had intended to remedy — continued to shape Anglo-American views of statutory construction, and legal interpretation more generally, well into the nineteenth century. For Blackstone’s articulation of the rule, see 1 BLACKSTONE, *supra* note 8, at *61. The relevance of common law modes of statutory construction to interpreting antebellum law, including the mischief rule, is clearly articulated in 1 ZEPHANIAH SWIFT, *A DIGEST OF THE LAWS OF THE STATE OF CONNECTICUT* 11 (New Haven, S. Converse 1822). For a modern scholarly discussion of the rule, see Samuel L. Bray, *The Mischief Rule*, 109 GEO. L.J. 967, 970 (2021).

sought to entrench civilian control of the military. By contrast, constitution writers in the era of the Fourteenth Amendment were no longer haunted by the specter of tyrannical Stuart Kings using their standing army to oppress American colonists. In place of these ancient fears, a new apprehension stalked Americans: the proliferation of especially dangerous weapons and the societal harms they caused.⁹⁹

53. The new language state constitutions employed to describe the right to bear arms enacted during Reconstruction responded to these changed circumstances by adopting a new formulation of the venerable right codified in 1776, linking the right to bear arms inextricably with the states broad police power to regulate conduct to promote health and public safety.¹⁰⁰ For example, the 1868 Texas Constitution included new language that underscored the indissoluble connection that Anglo-American law had long recognized between the right to keep and bear arms and regulation of guns. “Every person shall have the right to keep and bear arms, in the lawful defence of himself or the government, under such regulations as the Legislature may prescribe.”¹⁰¹ Nor was Texas an outlier in

⁹⁹ See *McDonald*, 561 U.S. at 767–68

¹⁰⁰ Saul Cornell, *The Right to Regulate Arms in the Era of the Fourteenth Amendment: The Emergence of Good Cause Permit Schemes in Post-Civil War America*, 55 U.C. DAVIS L. REV. ONLINE 65 (2022).

¹⁰¹ TEX. CONST. OF 1868, Art. I, § 13; for similarly expansive constitutional provision enacted after the Civil War, see IDAHO CONST. OF 1889, art. I, § 11 (“The

this regard. Sixteen state constitutions adopted during this period employed similarly expansive language.¹⁰² Millions of Americans living in the newly organized western states and newly reconstructed states of the former confederacy adopted constitutional provisions that reflected this new formulation of the right to bear arms. Thus, millions of Americans were living under constitutional regimes that acknowledged that the individual states' police power authority over firearms was at its apogee when regulating guns.¹⁰³

54. This expansion of regulation was entirely consistent with the Fourteenth Amendment's emphasis on the protection of rights and the need to regulate conduct that threatened the hard-won freedoms of recently free people of the South and their Republican allies. The goals of Reconstruction were therefore intimately tied to the passage and enforcement of racially neutral gun regulations.¹⁰⁴

people have the right to bear arms for their security and defense; but the legislature shall regulate the exercise of this right by law."); UTAH CONST OF 1896, art. I, § 6 (“[T]he people have the right to bear arms for their security and defense, but the legislature may regulate the exercise of this right by law.”).

¹⁰² Cornell, *supra* note 100, at 75–76.

¹⁰³ *Id.*

¹⁰⁴ ERIC FONER, *THE SECOND FOUNDING: HOW THE CIVIL WAR AND RECONSTRUCTION REMADE THE CONSTITUTION* (2019); Brennan Gardner Rivas, *Enforcement of Public Carry Restrictions: Texas as a Case Study*, 55 U.C. DAVIS L. REV. 2603 (2022).

55. Reconstruction ushered in profound changes in American law, but it did not fundamentally alter the antebellum legal view that a states' police powers were rooted in the people's right to make laws to protect the peace and promote public safety. Nor did Reconstruction challenge the notion that these powers were at their zenith when dealing with guns and gunpowder. In fact, the Republicans who wrote the Fourteenth Amendment were among the most ardent champions of an expansive view of state police power. As heirs to the antebellum Whig vision of a well-regulated society, Reconstruction-era Republicans used government power aggressively to protect the rights of recently freed slaves and promote their vision of ordered liberty.¹⁰⁵

56. Indeed, the passage of the Fourteenth Amendment was premised on the notion that the individual states would not lose their police power authority to the federal government. The author of Section One of the Fourteenth Amendment, John Bingham, reassured voters that the states would continue to bear the primary responsibility for "local administration and personal security."¹⁰⁶ As long as state

¹⁰⁵ Robert J. Kaczorowski, *Congress's Power to Enforce Fourteenth Amendment Rights: Lessons from Federal Remedies the Framers Enacted*, 42 HARV. J. ON LEGIS. 187 (2005); Christopher Tomlins, *To Improve the State and Condition of Man: The Power to Police and the History of American Governance* 53 BUFFALO L. REV. 1215 (2005/2006).

¹⁰⁶ John Bingham, *Speech*, CINCINNATI DAILY GAZETTE (Sept. 2, 1867), as quoted in Saul Cornell and Justin Florence, *The Right to Bear Arms in the Era of the Fourteenth Amendment: Gun Rights or Gun Regulation*, 50 SANTA CLARA L.

and local laws were racially neutral and favored no person over any other, the people themselves, acting through their representatives, were free to enact reasonable measures necessary to promote public safety and further the common good.¹⁰⁷

57. Across the nation legislatures took advantage of the new formulation of the right to bear arms included in state constitutions and enacted a staggering range of new laws to regulate arms. Indeed, the number of laws enacted skyrocketed, increasing by over four hundred percent from antebellum levels.¹⁰⁸ Not only did the number of laws increase, but the number of states and localities passing such laws also expanded.¹⁰⁹

58. Henry Campbell Black, the author of *Black's Law Dictionary*, described the police power as “inalienable” and echoed the view of a long line of jurists who noted that the scope of the power was not easily defined and the determination of its limits was best left to courts on a case-by-case basis.¹¹⁰ Indeed, even the most ardent critics of the police power, such as conservative legal

REV. 1043, 1058 (2010).

¹⁰⁷ For a discussion of how the courts wrestled with the meaning of the Amendment, see WILLIAM E. NELSON, *THE FOURTEENTH AMENDMENT: FROM POLITICAL PRINCIPLE TO JUDICIAL DOCTRINE* (1998).

¹⁰⁸ See Spitzer, *supra* note 38, at 59–61 tbl. 1.

¹⁰⁹ *Id.*

¹¹⁰ HENRY CAMPBELL BLACK, *HANDBOOK OF CONSTITUTIONAL LAW*, 334–344 (2d ed., 1897).

scholar Christopher G. Tiedeman, acknowledged that “police power of the State extends to the protection of the lives, limbs, health, comfort and quiet of all persons, and the protection of all property within the State.”¹¹¹

59. In keeping with the larger goals of Reconstruction, Republicans sought to protect the rights of African-Americans to bear arms but were equally insistent on enacting strong racially neutral regulations aimed at public safety. Violence directed against African-Americans, particularly the campaign of terror orchestrated by white supremacist para-military groups prompted Republican dominated legislatures in the Reconstruction South to pass a range of racially neutral gun regulations.¹¹² The racially neutral gun laws enacted by Republicans were in part a reaction to the discriminatory black codes passed by neo-confederate legislatures earlier in Reconstruction. The Black Codes violated the Second Amendment, but the wave of firearms legislation passed by Republican controlled state legislatures in the South were consciously crafted to honor the Second Amendment and protect individuals from gun violence.¹¹³

¹¹¹ CHRISTOPHER G. TIEDEMAN, A TREATISE ON THE LIMITATIONS OF THE POLICE POWER IN THE UNITED STATES 4–5 (1886) (citing *Thorpe v. Rutland R.R.*, 27 Vt. 140, 149-50 (1854)).

¹¹² Mark Anthony Frassetto, *The Law and Politics of Firearms Regulation in Reconstruction Texas*, 4 TEX. A&M L. REV. 95, 113–17 (2016); Brennan G. Rivas, *An Unequal Right to Bear Arms: State Weapons Laws and White Supremacy in Texas, 1836-1900*, 121 SOUTHWESTERN QUARTERLY 284 (2020).

¹¹³ See Darrell A. H. Miller, *Peruta, The Home-Bound Second Amendment*,

60. The laws enacted during Reconstruction underscore the fact that robust regulation of firearms during Reconstruction was not a novel application of the police power, but an expansion and continuation of antebellum practices. Moreover, these efforts illustrated a point beyond dispute: the flexibility inherent in police power regulations of guns. American states had regulated arms since the dawn of the republic and Reconstruction simply renewed America's commitment to the idea of well-regulated liberty.

61. Another important change relevant to understanding firearms regulation in the Reconstruction era derives from changes in firearms technology, specifically the increased lethality of modern weapons. The change in firearms technology between the era of the Second Amendment and Fourteenth Amendment was profound. Firearms became more deadly, lighter, easier to use, more accurate, and required far less training to be effective than did the muskets of the eighteenth century. Although comparisons of weapons from different eras is inherently subjective, one effort to compile a comparative lethality index for military weapons is instructive. Military historian and defense analyst Trevor Dupuy's theoretical lethality index captures the exponential growth in the lethality of

and Fractal Originalism, 127 HARV. L. REV. 238, 241 (2014); *see also* Robert J. Kaczorowski, *Congress's Power to Enforce Fourteenth Amendment Rights: Lessons from Federal Remedies the Framers Enacted*, 42 HARV. J. ON LEGIS. 187, 205 (2005) (discussing Republican use of federal power to further their aims, including to enforce the Fourteenth Amendment).

firearms between the era of the Second Amendment and the Fourteenth. Of course, the lethality index, an intellectual construct developed to compare weapons on the battlefield offers an imperfect gauge for the increased lethality of modern weapons in a civilian context. An attack on a school with an eighteenth-century musket could easily result in no casualties given the difficulty of using such weapons and the likelihood of misfiring. The attack on Sandy Hook Elementary School and the scores of mass shootings in recent years would have been impossible using common eighteenth-century firearms. The improvements associated with weapons in the Civil War era were significant, but they pale in comparison to the carnage that that modern semi-automatic weapons can inflict in densely populated areas and sensitive places. Thus, Dupuy's innovative and useful scale, designed for battlefield comparisons invariably understates the increase in the level of destruction today's weapons can inflict upon a civilian population.¹¹⁴

¹¹⁴ Darrell Miller and Jennifer Tucker, *Common Use Lineage, and Lethality* 55 U.C DAVIS. L. REV 2495, 2509 (2022).

Dupuy's Theoretical Lethality Index⁷⁴

Weapon	TLI
Sword, pike, etc.	23
Longbow	36
17th c. musket	19
18th c. flintlock	43
Early 19th c. rifle	36
Mid-19th c. rifle/conoidal bullet	102
Late 19th c. breech-loading rifle	153
Springfield Model 1903 rifle (magazine)	495
World War I machine gun	3,463
World War II machine gun	4,973

Another important insight derived from Dupuy's work concerns the increased lethality of guns in the late nineteenth century. The expansion of gun laws after the Civil War, in part, reflects the improvements in firearms lethality and their wider availability to the civilian population. The ease of use of these weapons compared to earlier firearms also increased their popularity. The rise of easily concealed weapons, especially pocket pistols, contributed to rising urban crime and violence. In response to these developments states and localities enacted laws to regulate the baneful consequences of arms proliferation as they had done time and again in the decades following the adoption of the Second Amendment and its state analogs.¹¹⁵

V. *BRUEN*'S FRAMEWORK AND THE SCOPE OF PERMISSIBLE REGULATION

¹¹⁵ *Supra* note 38.

62. The power to regulate and in some cases prohibit dangerous or unusual weapons has always been central to the police power authority of states and localities. At different moments in American history communities have deemed particular categories of weapons to be especially dangerous and have regulated them, and when it appeared necessary enacted bans on some types of weapons. Such determinations were not made based on technological features in isolation but reflected the ancient common law tradition of singling out weapons capable of producing a terror or that posed a particular threat to public safety. Such weapons undermined the peace. As the Second Amendment's text makes clear, weapons that undermine the security of a free state are not within the scope of its protections. Defining exactly which category of weapons have fallen outside of the scope of constitutional protection has shifted over time as society has addressed new developments in firearms technology, evolving societal norms, and other changes. In short, social and economic transformation were always accompanied by legal transformation. Put another way, as times change, the law changes with them.¹¹⁶

63. Political scientist Robert Spitzer's overview of the history of firearms regulation underscores a basic point about American law: "The lesson of gun regulation history here is that new technologies bred new laws when circumstances

¹¹⁶ Spitzer, *supra* note 38.

warranted.”¹¹⁷ States and localities have regulated gunpowder and arms, since the earliest days of the American Republic. The statutes at issue in this case are analogous to a long-established tradition of firearms regulation in America, beginning in the colonial period and stretching across time to the present. This venerable tradition of using police power authority to craft specific laws to meet shifting challenges has continued to the present day.¹¹⁸ The adaptability of state and local police power provided the flexibility governments needed to deal with the problems created by changes in firearms technology and gun culture.

64. The metric used by courts to adjudicate questions about the scope of permissible regulation has remain constant over the long arc of American history. To constitute an infringement of the right the law must burden the right of self-defense to such a degree that it effectively negates it. As long as laws stay within this threshold they have been held to be constitutional.

/

/

/

/

/

¹¹⁷ *Id.*

¹¹⁸ GERSTLE, *supra* note 88.

Executed on February 15, 2023 at Redding, CT.

Saul Cornell

Saul Cornell

Saul Cornell

Paul and Diane Guenther Chair in American History
Department of History
Fordham University

441 East Fordham Road * Bronx, NY 10458 * 203 826-6608 (c) * scornell1@fordham.edu

Education

1989	University of Pennsylvania	Ph.D.	Dissertation: "The Political Thought and Culture of the Anti-Federalists"
1985	University of Pennsylvania	MA	History
1982	Amherst College	BA	History - Magna Cum Laude
1980-81	University of Sussex, Brighton, England		

Teaching Experience

2009-2020	Guenther Chair in American History	Fordham University
2011-2022	Adjunct Professor of Law	Fordham Law School
2005-2008	Professor of History	The Ohio State University
1997-2005	Associate Professor, History	The Ohio State University
1995	Thomas Jefferson Chair	University of Leiden, The Netherlands
1991-1997	Assistant Professor, History	The Ohio State University
1989-1991	Assistant Professor, History	College of William and Mary

Fellowships and Grants

- 2019-2020 The Gilder Lehrman Center for the Study of Slavery, Resistance, and Abolition, Yale University
- 2018-2019 Senior Research Scholar in Residence, Floersheimer Center for Constitutional Democracy, Cardozo Law School
- 2014 Senior Research Scholar in Residence, University of Connecticut Law School
- 2011 Senior Research Scholar in Residence, Yale Law School
- 2003-2008 Joyce Foundation, Second Amendment Center Grant, \$575,000
- 2003-2004 NEH Fellowship
- 2002-2005 Department of Education, Teaching American History Grant, Historyworks, \$2,000,000
- 2002 Gilder-Lehrman Fellowship
- 2001-2002 Joyce Foundation Planning Grant, \$40,000
- 2001 American Council of Learned Societies (ACLS)
- 1999-2000 Betha Grant, Batelle Memorial Endowment, Ohio Teaching Institute, \$100,000
- 1998 Thomas Jefferson Memorial Foundation, Research Fellowship
- 1995 Thomas Jefferson Chair in American Studies, Fulbright Lecturing Award
- 1994 Ohio State University Seed Grant
- 1993 Ohio State University Special Research Assignment
- 1992 Ohio State University Grant-In-Aid
- 1989-1991 NEH Post-Doctoral Fellow, Institute of Early American History and Culture

Prizes and Awards

- 2006 Langum Prize in Legal History 2006
- 2006 History News Network, Book of the Month
- 2006 History News Network, Top Young Historian
- 2001 Society of the Cincinnati, History Book Prize, a Triennial Award for the Best Book on the American Revolutionary Era
- 2000 Choice Outstanding Academic Book

Book Publications

The Partisan Republic: Democracy, Exclusion, and the Fall of the Founders Constitution *New Histories of American Law*, series eds., Michael Grossberg and Christopher Tomlins (Cambridge University Press, 2019) [With Gerald Leonard]

The Second Amendment On Trial: Critical Essays on District of Columbia v. Heller (University of Massachusetts Press, 2013) [with Nathan Kozuskanich]

Visions of America: A History of the United States [co-authored with Jennifer Keene and Ed O'Donnell] (First edition, 2009),(second edition 2013) (third edition, 2016)

"A Well Regulated Militia": The Founding Fathers and the Origins of Gun Control (Oxford University Press, 2006) (paperback edition 2008)

Whose Right to Bear Arms Did the Second Amendment Protect? (Bedford/St. Martins Press, 2000) (Paperback 2000)

The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788-1828 (Institute of Early American History and Culture, University of North Carolina Press, 1999) (paperback edition 2001)

Editor, Retrieving the American Past: Documents and Essays on American History, (Pearson, 1994-2008)

Scholarly Articles, Book Chapters, and Essays:

"History and Tradition or Fantasy and Fiction: Which Version of the Past Will the Supreme Court Choose in *NYSRPA v. Bruen?*," 49 *Hastings Constitutional Law Quarterly* (2022): 145-177.

"The Long Arc of Arms Regulation in Public: From Surety to Permitting, 1328–1928," 55 *University of California, Davis Law Review* (2022): 2545-2602

"Infants' and Arms Bearing in the Era of the Second Amendment: Making Sense of the Historical Record," 40 *Yale Law & Policy Review Inter Alia* 1 (2021)

"The Right to Regulate Arms in the Era of the Fourteenth Amendment: The Emergence of Good Cause Permit Schemes in Post-Civil War America" 55 *University of California, Davis Law Review Online* (2021): 65-90.

- “President Madison's Living Constitution: Fixation, Liquidation, and Constitutional Politics in the Jeffersonian Era”, 89 Fordham Law Review (2021): 1761-1781.
- “History, Text, Tradition, and the Future of Second Amendment Jurisprudence: Limits on Armed Travel Under Anglo-American Law, 1688–1868,” 83 Law and Contemporary Problems (2020): 73-95
- “Reading the Constitution, 1787–91: History, Originalism, and Constitutional Meaning.” Law and History Review 37 (2019): 821–45
- “Constitutional Mythology and the Future of Second Amendment Jurisprudence after *Heller*,” in Firearms and Freedom: The Second Amendment in the Twenty-First Century Controversies in American Constitutional Law Series (Routledge, 2017): 8-24
- “The Right to Keep and Carry Arms in Anglo-American Law, Preserving Liberty and Keeping the Peace,” 80 Law and Contemporary Problems (2017): 11-54
- “Half Cocked’: The Persistence of Anachronism and Presentism in the Academic Debate over the Second Amendment,” 107 Northwestern Journal of Criminal Law 107 (2017): 203-218
- “The 1790 Naturalization Act and the Original Meaning of the Natural Born Citizen Clause: A Short Primer on Historical Method and the Limits of Originalism,” Wisconsin Law Review Forward 92 (2016)
- “Constitutional Meaning and Semantic Instability: Federalists and Anti-Federalists on the Nature of Constitutional Language,” in special issue on “The Future of Legal History,” American Journal of Legal History 56 (2016): 21-29
- “Firearm Regionalism and Public Carry: Placing Southern Antebellum Case Law in Context,” Yale Law Journal Forum 125(2015-16):121-135 [with Eric Ruben]
- “Originalism As Thin Description: An Interdisciplinary Critique” Fordham Law Review Res Gestae 84 (2015): 1-10
- “The Right to Bear Arms,” The Oxford Handbook of the US Constitution, eds., Mark Tushnet, Sanford Levinson, and Mark Graber (2015): 739-759
- “Conflict, Consensus & Constitutional Meaning: The Enduring Legacy of Charles Beard” Constitutional Commentary 29(2014): 383-409
- “Meaning and Understanding in the History of Constitutional Ideas: the Intellectual History Alternative to Originalism” Fordham Law Review 82 (2013): 721-755
- “The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities” Fordham Urban Law Journal 39 (2012): 1695-1726
- “Evidence, Explanation, and the Ghost of Charles Beard” William & Mary Quarterly 69 (2012): 393-4
- “Idiocy, Illiteracy, and the Forgotten Voices of Popular Constitutionalism: Ratification and the Ideology of Originalism” William & Mary Quarterly 69 (2012): 365-368
- “The People’s Constitution v. The Lawyer’s Constitution: Popular Constitutionalism and the Original Debate Over Originalism,” Yale Journal of Law and the Humanities 23 (2011): 295-337
- “St. George Tucker's Lecture Notes, The Second Amendment, and Originalist Methodology: A Critical Comment,” Northwestern University Law Review 103 (2009): 406-416

- “Heller, New Originalism, and Law Office History: ‘Meet the New Boss, Same as the Old Boss’” UCLA Law Journal 56 (2009): 1095-1125
- “Originalism on Trial: The Use and Abuse of History in *District of Columbia v. Heller*” Ohio-State Law Journal 69 (2008): 625-640
- “Consolidation of the Early Federal System,” Chapter 10 of the Cambridge History of American Law (Cambridge University Press, 2008) [With Gerry Leonard]
- “The Ironic Second Amendment” Albany Government Law Review 2 (2008): 292-311.
- “The Original Meaning of Original Understanding: A Neo-Blackstonian Critique,” Maryland Law Review (2008): 101-115
- “Mobs, Militias, and Magistrates: Popular Constitutionalism During the Whiskey Rebellion,” Chicago-Kent Law Review (2007): 883-903
- “The Second Amendment and Early American Gun Regulation: a Closer Look at the Evidence,” Law and History Review (2007): 197-204
- “St. George Tucker and the Second Amendment: Original Understandings and Modern Misunderstandings,” William and Mary Law Review 47 (2006): 1123-55
- “The Early American Origins of the Modern Gun Control Debate: The Right to Bear Arms, Firearms Regulation, the Lessons of History,” Stanford Law and Policy Review (2006): 571-596
- “Well Regulated: The Early American Origins of Gun Control,” Fordham Law Review 73 (2004): 487-528 [With Nathan DeDino]
- “Beyond the Myth of Consensus: The Struggle to Define the Right to Bear Arms in the Early Republic,” in Beyond the Founders: New Essays on the Political History of the Early Republic (UNC Press, 2005)
- “A New Paradigm for the Second Amendment,” Law and History Review 22 (2004): 161-7
- “Gun Laws and Policies: A Dialogue,” Focus on Law Studies: Teaching about Law in the Liberal Arts (American Bar Association, 2003)
- “The Militia Movement,” Oxford Companion to American Law (Oxford University Press, 2002)
- “Don’t Know Much About History: The Current Crisis in Second Amendment Scholarship,” Northern Kentucky Law Review (2003)
- “A Right to Bear Quills or Kill Bears? A Critical Commentary on the Linkage between the 1st and 2nd Amendment in Recent Constitutional Theory,” in The Limits of Freedom in A Democratic Society (Kent State University Press, 2001)
- “The Irony of Progressive Historiography: The Revival of Anti-Federalism in Contemporary Constitutional History,” in American Law Ways and Folkways (Odense University Press, Denmark 2001)
- “Commonplace or Anachronism: The Standard Model, The Second Amendment, and the Problem of History in Contemporary Constitutional Theory,” Constitutional Commentary (1999): 221-246
- “Mere Parchment Barriers? Anti-Federalists, the Bill of Rights, and the Question of Rights Consciousness,” in Government Proscribed: The Bill of Rights (University of Virginia Press, 1998): 175-208

- “Moving Beyond the Great Story: Post-Modern Prospects, Post-Modern Problems, A Forum on Robert Berkhofer, Jr. Beyond the Great Story” American Quarterly (1998): 349-357
- “The Anti-Federalists,” in The Blackwell Companion to American Thought, eds., James Kloppenberg (London, 1995)
- “The Bill of Rights,” in The Blackwell Companion to American Thought, eds., James Kloppenberg (London, 1995)
- “Splitting the Difference: Textualism, Contextualism, and Post-Modern History,” American Studies (1995): 57-80
- “Canon Wars II: The Return of the Founders,” Reviews in American History 22 (1994): 413-417
- “Moving Beyond the Canon of Traditional Constitutional History: Anti-Federalists, the Bill of Rights and the Promise of Post-Modern Historiography,” Law and History Review (1994): 1-28
- “Early American History in a Post-Modern Age,” William and Mary Quarterly 50 (1993): 329-341
- “Liberal Republicans, Republican Liberals?: The Political Thought of the Founders Reconsidered,” Reviews in American History 21 (1993): 26-30
- “Politics of the Middling Sort: The Bourgeois Radicalism of Abraham Yates, Melancton Smith, and the New York Anti-Federalists,” in New York in the Age of the Constitution (New York Historical Society, 1992): 151-175
- “Aristocracy Assailed: Back-Country Opposition to the Constitution and the Problem of Anti-Federalist Ideology,” Journal of American History (1990): 1148-1172
- “The Changing Historical Fortunes of the Anti-Federalists,” Northwestern University Law Review (1989): 39-73
- “Reflections on the ‘Late Remarkable Revolution in Government,’ Aedanus Burke and Samuel Bryan’s Unpublished History of the Ratification of the Federal Constitution,” The Pennsylvania Magazine of History and Biography (1988): 103-130

Book Reviews:

- Journal of American History
- William and Mary Quarterly
- American Studies Journal of the Early Republic
- Pennsylvania Magazine of History and Biography
- American Quarterly
- American Journal of Legal History
- Law and History Review

Journal Manuscript Referee:

- Journal of American History
- William and Mary Quarterly
- Diplomatic History
- Pennsylvania Magazine of History and Biography
- Law and History Review
- Harvard Law Review

- Stanford Law Review
- Yale Law Journal

Book Manuscript Reviewer:

- University Press of Virginia
- University of North Carolina Press
- Stanford University Press
- University of Massachusetts Press
- Oxford University Press
- Cambridge University Press
- University of Michigan Press
- Harvard University Press

Invited Lectures:

“Race, Regulation, and Guns: The Battleground in the Debate Over the Second Amendment,”
Haber/Edelman Lecture: University of Vermont, Fall 2021

“Second Amendment Myths and Realities,” University of Tampa, Honors College Symposium,
November 30, 2018.

“The Common Law and Gun Regulation: Neglected Aspects of the Second Amendment Debate,” Guns
in Law, Amherst College, Law Justice and Society (2016)

“The New Movement to End Gun Violence.” UCLA Hammer Museum (2016)

“No Person May Go Armed”: A Forgotten Chapter in the History of Gun Regulation” The Elizabeth
Battelle Clark Legal History Series, Boston University College of Law, 2016

Legacy Speaker Series: “Guns in the United States,” University of Connecticut (2016) “How does the
Second Amendment Apply to Today?”

American Constitution Society/ Federalist Society Debate, Tulane Law School, New Orleans (2016)

“The Second Amendment and The Future of Gun Regulation: Forgotten Lessons From U.S. History,”
Constitution Day Lecture, Goucher College, (2015)

Keynote Lecture: “The Second Amendment and American Cultural Anxieties: From Standing Armies to
the Zombie Apocalypse” Firearms and Freedom: The Relevance of the Second Amendment in the
Twenty First Century, Eccles Center, British Library (Spring 2015)

“Narratives of Fear and Narratives of Freedom: A Short Cultural History of the Second Amendment,”
Comparing Civil Gun Cultures: Do Emotions Make a Difference? Max Plank Institute, Berlin (2014)

“History and Mythology in the Second Amendment Debate,” Kollman Memorial Lecture, Cornell
College, Iowa (Spring, 2013)

“Will the Real Founding Fathers Please Stand Up or Why are so few Historians Originalists”
Constitution Day Lecture, Lehman College, Fall 2011

“Lawyers, Guns, and Historians: The Second Amendment Goes to Court,” SHEAR/HSP Public Lecture,
Philadelphia, July, 2008

The Robert H. and Alma J. Wade Endowment Lecture, Kentucky Wesleyan University, “The Early American Origins of Gun Control” (2006)

“Jefferson, Mason, and Beccaria: Three Visions of the Right to Bear Arms in the Founding Era,” Bill of Rights Lecture, Gunston Hall Plantation, Fairfax, VA (2003)

“A New Paradigm for the Second Amendment,” Finlay Memorial Lecture, George Mason University, (2001)

“Academic Gunsmoke: The Use and Abuse of History in the Second Amendment Debate,” Cadenhead Memorial Lecture, University of Tulsa, (2000)

“Why the Losers Won: The Rediscovery of Anti-Federalism in the Reagan Years,” Thomas Jefferson Inaugural Lecture, University of Leiden, Netherlands, (1995)

Presentations:

“From Ideology to Empiricism: Second Amendment Scholarship After Heller, “ Hastings Constitutional Law Quarterly Symposium, Heller at Ten, January 18, 2019

“Firearms and the Common Law Tradition,” Aspen Institute, Washington, DC (2016)

“The Original Debate over Original Meaning Revisited, ” British Group in Early American History, Annual Meeting, Cambridge, England (2016)

“Second Amendment Historicism and Philosophy” The Second Generation of Second Amendment Scholarship” Brennan Center, NYU 2016

“The Reception of the Statute of Northampton in Early America: Regionalism and the Evolution of Common Law Constitutionalism” OIEAHC and the USC/Huntington Library Early Modern Studies Institute May 29–30, 2015

“The Right to Travel Armed in Early America: From English Restrictions to Southern Rights,” British Group in Early American History, Annual Conference Edinburgh, Scotland (2014)

“Progressives, Originalists, and Pragmatists: The New Constitutional Historicism and the Enduring Legacy of Charles Beard,” Charles Beard, Economic Interpretation and History, Rothmere Center, Oxford University (2012)

CUNY Early American Seminar, “The People’s Constitution v. the Lawyer’s Constitution,” 2011

Roundtable : “The Work of J.R. Pole,” SHEAR , Philadelphia, Pennsylvania 2011)

“The Right to Bear Arms in the Era of the Fourteenth Amendment: Gun Rights or Gun Regulation?” Bearing Arms, Policy, Policing, and Incorporation After Heller, Santa Clara Law School (2010)

“Re-envisioning Early American History,” American Historical Association Annual Meeting, San Diego (2010)

“The Ironic Second Amendment” Firearms, the Militia, and Safe Cities: Merging History, Constitutional Law and Public Policy, Albany Law School (2007)

“*District of Columbia v. Heller* and the Problem of Originalism,” University of Pennsylvania Constitutional Law Workshop, Philadelphia (2007)

- “Progressives and the Gun Control Debate,” American Constitution Society, Harvard Law School, (2006)
- “The Problem of Popular Constitutionalism in Early American Constitutional Theory,” American Association of Law Schools, Annual Conference (2006)
- “Popular Constitutionalism and the Whiskey Rebellion,” Symposium on Larry Kramer’s The People Themselves, Chicago-Kent Law School (2005)
- Roundtable Discussion on the Second Amendment and Gun Regulation, NRA/ GMU Student’s For the Second Amendment Symposium (2005)
- “The Early American Origins of the Modern Gun Control Debate: The Right to Bear Arms, Firearms Regulation, and the Lessons of History,” Gun Control: Old Problems, New Problems, Joint Conference Sponsored by the John Glenn Institute and Stanford Law School (2005)
- “Original Rules for Originalists?” University of Minnesota Law School (2005)
- “The Fourteenth Amendment and the Origins of the Modern Gun Debate,” UCLA, Legal History Workshop (2004)
- “Beyond Consensus, Beyond Embarrassment: The Use and Abuse of History in the Second Amendment Debate,” American Society of Legal History, Austin, TX (2004)
- “Armed in the Holy Cause of Liberty: Guns and the American Constitution,” NYU Legal History Colloquium (2004)
- “Digital Searches and Early American History,” SHEAR Brown University (2004)
- “Well Regulated: The Early American Origins of Gun Control,” The Second Amendment and the Future of Gun Regulation,” Joint Conference Sponsored by the John Glenn Institute and Fordham Law School, New York (2004)
- “Minuteman, Mobs, and Murder: Forgotten Contexts of the Second Amendment,” Department of History, University of California Berkeley (2003)
- “History vs. Originalism in the Second Amendment Debate,” Federalist Society/ American Constitution Society, George Washington University Law School, Washington D.C. (2003)
- “Self-defense, Public Defense, and the Politics of Honor in the Early Republic,” Lake Champlain Early American Seminar, Montreal (2003)
- “The Ironic Second Amendment” “Gun Control: Controversy, Social Values, and Policy,” University of Delaware Legal Studies Conference, Newark, Delaware (2003)
- “Individuals, Militias, and the Right to Bear Arms: The Antebellum Debate Over Guns,” Institute for Legal Studies, University of Wisconsin School of Law (2004)
- “Guns in the British Atlantic World: New Research, New Directions” Society for the Historians of the Early American Republic, Ohio State University (2003)
- “Neither Individual nor Collective: A New Paradigm for the Second Amendment,” American Bar Foundation, Chicago (2003)
- “The Changing Meaning of the Armed Citizen in American History,” “Americanism Conference,” Georgetown University (2003)

- “A New Paradigm for the Second Amendment?” Supreme Court Historical Society, Washington, D.C. (2002)
- “Constitutional History as Cultural History: The Case of the Second Amendment” European American Studies Association, Bordeaux, France (2002)
- “Don’t Know Much About History: The Current Crises in Second Amendment Scholarship,” Salmon P. Chase College of Law, Symposium, “The Second Amendment Today,” (2002)
- “History, Public Policy, and the Cyber-Age: Gun Control Policy after the Emerson Decision,” Sanford Institute of Public Policy, Duke University (2002)
- “Constitutional History After the New Cultural History: The Curious Case of the Second Amendment,” Society of the Historians of the Early American Republic, Baltimore (2001)
- Roundtable Discussion, “The State of Second Amendment Scholarship,” American Historical Association (2001)
- “Armed in the Holy Cause of Liberty: Critical Reflections on the Second Amendment Debate,” Vanderbilt University Law School (2001)
- “Neither Individual nor Collective: A New Paradigm for the Second Amendment,” Boston University Law School, (2000)
- “The Current State of Second Amendment Scholarship,” National Press Club Washington, D.C. American Bar Association, (2000)
- “Taking the Hype out of Hyper-Text, Or What Should Textbook Companies Be Doing for us on the Web,” OAH St. Louis, Missouri (1999)
- “The Ironies of Progressive Historiography: The Revival of Anti-Federalism in Contemporary Constitutional Theory,” European American Studies Association, Lisbon, Portugal (1998)
- “Deconstructing the Canon of American Constitutional History” American Society of Legal History, Seattle, Washington (1998)
- “Beyond Meta-narrative: The Promise of Hypertext,” American Studies Association, Seattle, Washington (1998)
- “Text, Context, Hypertext,” American Historical Association, Washington D.C. (1998)
- “Jefferson and Enlightenment,” International Center for Jefferson Studies, Charlottesville, VA, (1998)
- “Copley’s Watson and the Shark: Interpreting Visual Texts with Multi-media Technology,” American Studies Association, Washington, D.C. (1997)
- “Multi-Media and Post-Modernism,” H-Net Conference, Technology and the Future of History, East Lansing, Michigan (1997)
- Comment on Jack Rakove’s Original Meanings, Society of the Historians of the Early Republic, State College, PA (1997)
- “Teaching with Multi-Media Technology,” Indiana University, spring 1997 “Constitutional History from the Bottom Up: The Second Amendment as a Test Case,” McGill University, Montreal, Canada (1996)

- “Just Because You Are Paranoid, Does Not Mean the Federalists Are Not Out to Get You: Freedom of the Press in Pennsylvania,” University of Pennsylvania (1995)
- “Multi-Media and Post-Modernism: The Future of American Studies?” Lecture, Erasmus University, Rotterdam, Netherlands (1995)
- “Post-Modern American History? Ratification as a Test Case,” St. Cross College, Oxford University, Oxford, England (1994)
- “The Other Founders,” NYU Legal History Seminar,” NYU Law School (1994)
- “Reading the Rhetoric of Ratification,” paper presented at “Possible Pasts: Critical Encounters in Early America,” Philadelphia Center for Early American Studies, Philadelphia, PA (1994)
- “American Historiography and Post-Modernism,” Organization of American Historians, Atlanta, GA (1994)
- “The Anti-Federalist Origins of Jeffersonianism,” Columbia Seminar on Early American History (1994)
- “American History in a Post-Modern Age?” American Historical Association, San Francisco, CA (1994)
- “Post-Modern Constitutional History?” Indiana University School of Law, Bloomington, IN (1993)
- Participant, Institute of Early American History and Culture, planning conference, "New Approaches to Early American History," Williamsburg, VA (1992)
- “Mere Parchment Barriers? Federalists, Anti-Federalists and the Problem of Rights Consciousness,” American Studies Association, Baltimore, MD (1991)
- “James Madison and the Bill of Rights: a comment on papers by Jack Rakove, Ralph Ketcham and Max Mintz,” Organization of American Historians and Center for the Study of the Presidency Conference, "America's Bill of Rights at 200 Years," Richmond, VA, (1991)
- Symposium participant, “Algernon Sidney and John Locke: Brothers in Liberty?” Liberty Fund Conference, Houston, TX (1991)
- “Mere Parchment Barriers? Antifederalists, the Bill of Rights and the Question of Rights Consciousness,” Capitol Historical Society, Washington, D.C. (1991)
- “Anti-Federalism and the American Political Tradition,” Institute of Early American History and Culture Symposium, Williamsburg, VA (1989)

Interviews, Editorials, Essays, Podcasts:

- “Clarence Thomas’ Latest Guns Decision Is Ahistorical and Anti-Originalist”
SLATE June 24, 2022

- Cherry-picked history and ideology-driven outcomes: Bruen’s originalist distortions,” SCOTUSblog (Jun. 27, 2022, 5:05 PM),
- “The Right Found a New Way to Not Talk About a School Shooting,” SLATE May 25, 2022
- “The Horror in New York Shows the Madness of the Supreme Court’s Looming Gun Decision,” *Slate* May 19, 2022
- “Guns, Guns Everywhere: Last week’s subway Shooting was Horrifying. If the Supreme Court Creates a National Right to Carry, the Future will be Worse,” New York Daily News Apr 17, 2022
- “The Supreme Court’s Latest Gun Case Made a Mockery of Originalism” *Slate* November 10, 2021
- “‘Originalism’ Only Gives the Conservative Justices One Option On a Key Gun Case,” *Washington Post*, November 3, 2021
- “Neither British Nor Early American History Support the Nearly Unfettered Right to Carry Arms,” *Slate* November 02, 2021
- “Will the Supreme Court Create Universal Concealed Carry Based on Fantasy Originalism?” *Slate* November 1, 2021
- “Biden was Wrong About Cannons, but Right About the Second Amendment,” *Slate* June 29, 2021
- “Barrett and Gorsuch Have to Choose Between Originalism and Expanding Gun Rights,” *Slate* April 29, 2021 *Slate*
- “What Today’s Second Amendment Gun Activists Forget: The Right Not to Bear Arms,” *Washington Post*, January 18, 2021
- “Could America’s Founders Have Imagined This?” *The New Republic*, December 20, 2019
- “Don’t Embrace Originalism to Defend Trump’s Impeachment” *The New Republic*, December 5, 2019
- “The Second-Amendment Case for Gun Control” *The New Republic*, August 4, 2019
- “The Lessons of a School Shooting—in 1853” *Politico*, March 24, 2018.
- “Originalism and the Second Amendment in *District of Columbia v. Heller*,” *University of Chicago Law Review*, Podcast, Briefly 1.9, Wed, 04/11/2018
- “Sandy Hook and the Original Meaning of the Second Amendment,” *Time* December, 2017
- “The State of the Second Amendment,” National Constitution Center, Podcast October, 2017
- “Gun Anarchy and the Unfree State: The Real History of the Second Amendment,” *The Baffler On-line* October 2017
- “Five Types of Gun Laws the Founding Fathers Loved” *Salon* October 22, 2017
- “Half Cocked,” *Book Forum* April 2016
- “Let’s Make an Honest Man of Ted Cruz. Here’s how we Resolve his “Birther” Dilemma with Integrity” *Salon* January 23, 2016
- “Guns Have Always Been Regulated,” *The Atlantic Online* December 17, 2015
- “The Slave-State Origins of Modern Gun Rights” *The Atlantic Online* 30, 2015 [with Eric Ruben]
- PBS, “Need to Know: ‘Debating the Second Amendment: Roundtable’” April 26, 2013
- “All Guns are not Created Equal” Jan 28, 2013 *Chronicle of Higher Education* [with Kevin Sweeney]

- “What the ‘Right to Bear Arms’ Really Means” *Salon* January 15, 2011 “Elena Kagan and the Case for an Elitist Supreme Court,” *Christian Science Monitor* May 20, 2010
- “Gun Points,” *Slate*, March 8, 2010 (With Justin Florence, and Matt Shors)
- “What’s Happening to Gun Control,” *To the Point*, NPR. March 11, 2010
- “Getting History Right,” *National Law Journal*, March 1, 2010
- “History and the Second Amendment,” *The Kojo Nnamdi Show*, WAMU (NPR) March 17, 2008
- “The Court and the Second Amendment,” *On Point* with Tom Ashbrook, WBUR (NPR) March 17, 2008
- “Aim for Sensible Improvements to Gun Regulations,” *Detroit Free Press*, April 29, 2007
- “A Well Regulated Militia,” *The Diane Rehm Show*, WAMU (NPR) Broadcast on Book TV (2006)
- “Taking a Bite out of the Second Amendment,” *History News Network*, January 30, 2005
- “Gun Control,” *Odyssey*, Chicago NPR September 8, 2004
- “Loaded Questions,” *Washington Post Book World* February 2, 2003
- “The Right to Bear Arms,” Interview *The Newshour*, PBS May 8, 2002
- “Real and Imagined,” *New York Times*, June 24, 1999

Other Professional Activities

- Editorial Board, Constitutional Study, University of Wisconsin Press (2014-present)
- Advisory Council, Society of Historians of the Early American Republic (SHEAR) (2007-2009)
- Program Committee, Annual Conference, Society of the Historians of the Early American Republic, Philadelphia, PA 2008
- Editorial Board, American Quarterly (2004-2007)
- Director, Second Amendment Research Center, John Glenn Institute for Public Service and Public Policy, 2002- 2007
- Fellow, Center for Law, Policy, and Social Science, Moritz College of Law, Ohio State University 2001- 2004
- Local Arrangements Committee, Annual Conference, Society of the Historians of the Early American Republic, Columbus, OH 2003
- Project Gutenberg Prize Committee, American Historical Association, 2004, 2002
- Program Committee, Annual Conference, Society of the Historians of the Early Republic, 2001
- Co-Founder Ohio Early American Studies Seminar
- NEH Fellowship Evaluator, New Media Projects, Television Projects
- Multi-media Consultant and Evaluator, National Endowment for the Humanities, Special, Projects, Division of Public Programs, Grants Review Committee (1999)

Court Citations, Amicus Briefs and Expert Witness Reports

US Supreme Court:

N.Y. State Rifle & Pistol Ass’n v. Bruen, 597 U.S. ___, 50 2022 U.S. Lexis 3055 (2022)

N.Y. State Rifle & Pistol Ass'n v. Bruen, 597 U.S. ___, 26, 28, 45, 47 2022 U.S. Lexis 3055 (2022) (Breyer, J. dissenting)

McDonald v. City of Chicago, Ill., 561 U.S. 742, 900, 901 n.44 (2010) (Stevens, J., dissenting).

McDonald v. City of Chicago, Ill., 561 U.S. 742, 914, 933 (2010) (Breyer, J., dissenting).

D.C. v. Heller, 554 U.S. 570, 666 n.32, 671, 685 (2008) (Stevens, J., dissenting).

Federal Courts:

Jones v. Bonta, United States Court of Appeals, Ninth Circuit. May 11, 2022 --- F.4th ---- 2022 WL 1485187.

Duncan v. Bonta, United States Court of Appeals, Ninth Circuit. November 30, 2021 19 F.4th 1087 2021

Young v. Hawaii, 992 F.3d 765, 785-86 (9th Cir. 2021) (en banc).

Kanter v. Barr, 919 F.3d 437, 446 n.6, 457, 462, 464 (7th Cir. 2019) (Barrett, J., dissenting).

Medina v. Whitaker, 913 F.3d 152, 159 (D.C. Cir.), cert. denied sub nom. Medina v. Barr, 140 S. Ct. 645 (2019).

Young v. Hawaii, 896 F.3d 1044, 1066 (9th Cir. 2018), reh'g en banc granted, 915 F.3d 681 (9th Cir. 2019).

Young v. Hawaii, 896 F.3d 1044, 1077 (9th Cir. 2018) (Clifton, J., dissenting), reh'g en banc granted, 915 F.3d 681 (9th Cir. 2019).

Teixeira v. Cty. of Alameda, 873 F.3d 670, 684–85 (9th Cir. 2017).

Kolbe v. Hogan, 813 F.3d 160, 175 (4th Cir. 2016), on reh'g en banc, 849 F.3d 114 (4th Cir. 2017).

Binderup v. Attorney Gen. United States of Am., 836 F.3d 336, 348 (3d Cir. 2016).

Binderup v. Attorney Gen. United States of Am., 836 F.3d 336, 370–71, 371 n.17, 372 n.19 (3d Cir. 2016) (Hardiman, J., concurring).

Binderup v. Attorney Gen. United States of Am., 836 F.3d 336, 389 n.85, 405 n.187 (3d Cir. 2016) (Fuentes, J., concurring).

Peruta v. Cty. of San Diego, 824 F.3d 919, 935 (9th Cir. 2016).

Peruta v. Cty. of San Diego, 742 F.3d 1144, 1185, 1188 (9th Cir. 2014) (Thomas, J., dissenting).

Nat'l Rifle Ass'n, Inc. v. Bureau of Alcohol, Tobacco, Firearms, & Explosives, 714 F.3d 334, 342 n.19, 343 n.23 (5th Cir. 2013) (Jones, J., dissenting).

Kachalsky v. Cty. of Westchester, 701 F.3d 81, 95 & n.21 (2d Cir. 2012).

Moore v. Madigan, 702 F.3d 933, 935 (7th Cir. 2012).

Nat'l Rifle Ass'n of Am., Inc. v. Bureau of Alcohol, Tobacco, Firearms, & Explosives, 700 F.3d 185, 200, 202–03 (5th Cir. 2012).

United States v. Carpio-Leon, 701 F.3d 974, 980 (4th Cir. 2012).

United States v. Greeno, 679 F.3d 510, 519 (6th Cir. 2012).

United States v. Yancey, 621 F.3d 681, 684 (7th Cir. 2010).

United States v. Rene E., 583 F.3d 8, 12, 15–16 (1st Cir. 2009).

Miller v. Sessions, 356 F. Supp. 3d 472, 481 (E.D. Pa. 2019).

Grace v. D.C., 187 F. Supp. 3d 124, 138 n.11 (D.D.C. 2016).

Powell v. Tompkins, 926 F. Supp. 2d 367, 386 (D. Mass. 2013), aff'd, 783 F.3d 332 (1st Cir. 2015).

United States v. Tooley, 717 F. Supp. 2d 580, 589–591 (S.D.W. Va. 2010), aff'd, 468 F. App'x 357 (4th Cir. 2012).

United States v. Boffil-Rivera, No. 08-20437-CR, 2008 WL 8853354, 6 (S.D. Fla. Aug. 12, 2008), report and recommendation adopted sub nom.

United States v. Gonzales-Rodriguez, No. 08-20437-CR, 2008 WL 11409410 (S.D. Fla. Sept. 22, 2008), aff'd sub nom.

United States v. Boffil-Rivera, 607 F.3d 736 (11th Cir. 2010).

State Courts:

Norman v. State, 215 So. 3d 18, 30 & nn.11–12 (Fla. 2017).

Posey v. Com., 185 S.W.3d 170, 179–180 (Ky. 2006).

Posey v. Com., 185 S.W.3d 170, 185 n.3 (Ky. 2006) (Scott, J., concurring).

State v. Craig, 826 N.W.2d 789, 796 (Minn. 2013).

People v. Handsome, 846 N.Y.S.2d 852, 858 (N.Y. Crim. Ct. 2007).

Zaatari v. City of Austin, No. 03-17-00812-CV, 2019 WL 6336186, 22 (Tex. App. Nov. 27, 2019) (Kelly, J., dissenting).

State v. Roundtree, 2021 WI 1, 395 Wis. 2d 94, 952 N.W.2d 765

State v. Christen, 2021 WI 39, 958 N.W.2d 746

Amicus Briefs:

Amicus Brief, Harper v. Moore, No. 21-1271 (U.S. Supreme Court, 2022) [ISLT and Gerrymandering]

Amicus Brief KOX V. STATE OF GEORGIA, SUPREME COURT STATE OF GEORGIA Case No. S23A0167 [Second Amendment and Campus Carry]

Amicus Brief, NYSRPA v. Bruen, No. 20-843 (U.S. Supreme Court, 2021) [2nd Amendment]

Amicus Brief, Young v. State of Hawaii N O . 12-17808 (9th Cir. 2020) [2nd Amendment]

Amicus Brief, Gould v. Morgan, No. 17-2202 (1st Cir. 2018) [2nd Amendment]

Amicus Brief, Flanagan vs. Becerra, Central District of California Case (2018) [2nd Amendment]

Amicus Brief, Gill v. Whitford (US Supreme Court, 2017) [Partisan Gerrymandering]

Amicus Brief, Woollard v Gallagher, (4th Cir. 2013) [Second Amendment]

Amicus Brief *Heller v. District of Columbia* [Heller II] (US Court of Appeals for D.C.) (2010) [2nd Amendment]
Amicus Brief, *McDonald v. City of Chicago* (US Supreme Court, 2010) [14th Amendment]
Amicus Brief, *District of Columbia v. Heller* (US Supreme Court 2008) [2nd Amendment]
Amicus Brief, *Silvera v. Lockyer*, case on appeal (9th Circuit 2003) [2nd Amendment]
Amicus Brief, *Emerson v. U.S.* case on appeal (5th Circuit 1999) [2nd Amendment]
Pro-bono Historical Consultant State of Ohio, *McIntyre v. Ohio*, (U.S. Supreme Court, 1995) [1st Amendment]

Expert Witness Reports

Rocky Mountain Gun Owners, Nonprofit Corp. v. Hickenlooper, 14-cv-02850 (D. Colo.).
Chambers, et al., v. City of Boulder, 2018 CV 30581 (Colo. D. Ct. City of Boulder, filed June 14, 2018).
Zeleny v. Newsom, 14-cv-02850 (N.D. Cal.).
Miller, et al v. Smith, et al., 2018 cv 3085 (C.D. Ill.).
Jones v. Bonta United States Court of Appeals, --- F.4th ---- , 2022 WL 1485187 (9th Cir., May 11, 2022).
Baird v. Bonta, No. 2:19-cv-00617 (E.D. Cal.).
Worth v. Harrington, 21-cv-1348 (D. Minn.).

Law Review Symposia Organized

Second Amendment:

“The Second Amendment and the Future of Gun Regulation: Historical, Legal, Policy, and Cultural Perspectives,” 73 *Fordham L. Rev.* 487 (2004).
“Gun Control: Old Problems, New Paradigms” 17 *Stan. L. & Pol’y Rev.* 671 (2006).
“A Symposium on Firearms, the Militia and Safe Cities: Merging History, Constitutional Law and Public Policy,” 1 *Alb. Gov’t L. Rev.* 292 (2008).
”The 2nd Amendment at the Supreme Court: “700 Years of History” and the Modern Effects of Guns in Public,” 55 *U.C. Davis L. Rev.* 2545 (2022).

New Originalism:

“The New Originalism” 82 *Fordham L. Rev.* 721 (2013).
“Historians and the New Originalism: Contextualism, Historicism, and Constitutional Meaning” 84 *Fordham L. Rev.* 915 (2015).

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai'i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

**DECLARATION OF LOUIS
KLAREVAS**

DECLARATION OF LOUIS KLAREVAS

I, Louis Klarevas, declare under penalty of perjury that the following is true and correct:

1. I have been asked by the Department of the Attorney General, State of Hawaii, to prepare an expert declaration addressing the relationship between assault weapons, large-capacity magazines (LCMs), and mass shootings, including how restrictions on assault weapons and LCMs impact mass shooting violence. I am over the age of eighteen (18) years and this declaration is based on my own personal knowledge and experience. If I am called as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

PROFESSIONAL QUALIFICATIONS

2. I am a security policy analyst and, currently, Research Professor at Teachers College, Columbia University, in New York. I am also the author of the book *Rampage Nation*, one of the most comprehensive studies on gun massacres in the United States.¹

3. I am a political scientist by training, with a B.A. from the University of Pennsylvania and a Ph.D. from American University. My current research examines the nexus between American public safety and gun violence, including serving as an investigator in a study funded by the National Institutes of Health that is focused on reducing intentional shootings at elementary and secondary schools.

4. During the course of my 20-year career as an academic, I have served on the faculties of the George Washington University, the City University of New York, New York University, and the University of Massachusetts. I have also served as a Defense Analysis Research Fellow at the London School of Economics and Political Science and as United States Senior Fulbright Scholar in Security Studies at the University of Macedonia.

¹ Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (2016).

5. In addition to having made well over 100 media and public-speaking appearances, I am the author or co-author of more than 20 scholarly articles and over 70 commentary pieces. In 2019, my peer-reviewed article on the effectiveness of restrictions on LCMs in reducing high-fatality mass shootings resulting in six or more victims killed was published in the *American Journal of Public Health*.² This study found that jurisdictions with LCM bans experienced substantially lower gun massacre incidence and fatality rates when compared to jurisdictions not subject to similar bans. Despite being over 3 years old now, this study continues to be one of the highest impact studies in academia. It was recently referred to as “the perfect gun policy study,” in part due to the study’s “robustness and quality.”³

² Louis Klarevas, et al., “The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings,” 109 *American Journal of Public Health* 1754 (2019), available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311> (last accessed February 11, 2023).

³ Lori Ann Post and Maryann Mason, “The Perfect Gun Policy Study in a Not So Perfect Storm,” 112 *American Journal of Public Health* 1707 (2022), available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2022.307120> (last accessed February 11, 2023). According to Post and Mason, “Klarevas et al. employed a sophisticated modeling and research design that was more rigorous than designs used in observational studies. Also, they illustrated the analytic steps they took to rule out alternative interpretations and triangulate their findings, for example examining both state bans and federal bans. They helped build the foundation for future studies while overcoming the limitations of previous research.” *Ibid.*

6. In the past four years (since January 1, 2019), I have been deposed, testified in court, or testified by declaration in the following cases: *Duncan v. Becerra*, Case Number 17-cv-1017-BEN-JLB, United States District Court for the Southern District of California; *Miller v. Bonta*, Case No. 3:19-cv-1537-BEN-JBS, United States District Court for the Southern District of California; *Jones v. Bonta*, Case Number 19-cv-01226-L-AHG, United States District Court for the Southern District of California; *Nguyen v. Bonta*, Case No. 3:20-cv-02470-WQH-MDD, United States District Court for the Southern District of California; *Rupp v. Bonta*, Case Number 17-cv-00903-WBS-KJN, United States District Court for the Eastern District of California; *Brumback v. Ferguson*, Case Number 22-cv-03093-MKD, United States District Court for the Eastern District of Washington; *National Association for Gun Rights v. Highland Park*, Case Number 22-cv-04774, United States District Court for the Northern District of Illinois; *National Association for Gun Rights v. Campbell*, Case Number 22-cv-11431-FDS, United States District Court for the District of Massachusetts; *National Association for Gun Rights v. Lamont*, Case No. 3:22-cv-01118-JBA, United States District Court for the District of Connecticut; and *Oregon Firearms Federation v. Kotek*, Case No. 2:22-cv-01815-IM, United States District Court for the District of Oregon. This latter case includes three additional consolidated cases: *Fitz v. Rosenblum*, Case No. 3:22-cv-01859-IM, United States District Court for the District of Oregon; *Eyre v.*

Rosenblum, Case No. 3:22-cv-01862-IM, United States District Court for the District of Oregon; and *Azzopardi v. Rosenblum*, Case No. 3:22-cv-01869-IM, United States District Court for the District of Oregon.

7. In 2021, I was retained by the Government of Canada in the following cases which involved challenges to Canada's regulation of certain categories of firearms: *Parker and K.K.S. Tactical Supplies Ltd. v. Attorney General of Canada*, Federal Court, Court File No.: T-569-20; *Canadian Coalition for Firearm Rights, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-577-20; *Hipwell v. Attorney General of Canada*, Federal Court, Court File No.: T-581-20; *Doherty, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-677-20; *Generoux, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-735-20; and *Eichenberg, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-905-20. I testified under oath in a consolidated court proceeding involving all six cases in the Federal Court of Canada.

8. A true and correct copy of my current curriculum vitae is attached as **Exhibit A** to this declaration.

9. I have been retained by the Department of the Attorney General, State of Hawaii, to render expert opinions in this case. I will be compensated at a rate of \$600 per hour for any testimony (in deposition and in court), and am being compensated at a rate of \$480 per hour for all other services.

OPINIONS

10. It is my professional opinion, based upon my extensive review and analysis of the data, that (1) in terms of individual acts of intentional criminal violence, mass shootings presently pose the deadliest threat to the safety of American society in the post-9/11 era, and the problem is growing nationwide; (2) high-fatality mass shootings involving assault weapons and/or LCMs, on average, have resulted in a substantially larger loss of life than similar incidents that did not involve assault weapons and/or LCMs; (3) mass shootings resulting in double-digit fatalities are relatively modern phenomena in American history, largely related to the use of assault weapons and LCMs; and (4) states that restrict both assault weapons and LCMs experience fewer high-fatality mass shooting incidents and fatalities, per capita, than states that do not restrict assault weapons and LCMs. Based on these findings, it is my opinion that restrictions on assault weapons and LCMs have the potential to save lives by reducing the frequency and lethality of gun massacres.⁴

⁴ For purposes of this declaration, mass shootings are defined in a manner consistent with my book *Rampage Nation*, *supra* note 1 (*see* Excerpt Attached as **Exhibit B**). “Mass shootings” are shootings resulting in four or more victims being shot (fatally or non-fatally), regardless of location or underlying motive. As a subset of mass shootings, “high-fatality mass shootings” (also referred to as “gun massacres”) are defined as shootings resulting in 6 or more victims being shot to death, regardless of location or underlying motive. The data on high-fatality mass shootings is from a data set that I maintain and continuously update. This data set is reproduced in **Exhibit C**. Unless stated otherwise, all of the data used to

I. MASS SHOOTINGS ARE A GROWING THREAT TO PUBLIC SAFETY

11. Examining mass-casualty acts of violence in the United States since 1991 points to two disturbing patterns.⁵ First, as demonstrated in Table 1, the deadliest individual acts of intentional criminal violence in the United States since the terrorist attack of September 11, 2001, have all been mass shootings. Second, as displayed in Figures 1-2, the problem of high-fatality mass shooting violence is on the rise. To put the increase over the last three decades into perspective, between the 1990s and the 2010s, the average population of the United States increased approximately 20%. However, when the number of people killed in high-fatality mass shootings in the 1990s is compared to the number killed in such incidents in the 2010s, it reflects an increase of 260%. In other words, the rise in mass shooting violence has far outpaced the rise in national population—by a factor of 13. The obvious takeaway from these patterns and trends is that mass shootings pose a significant—and growing—threat to American public safety.

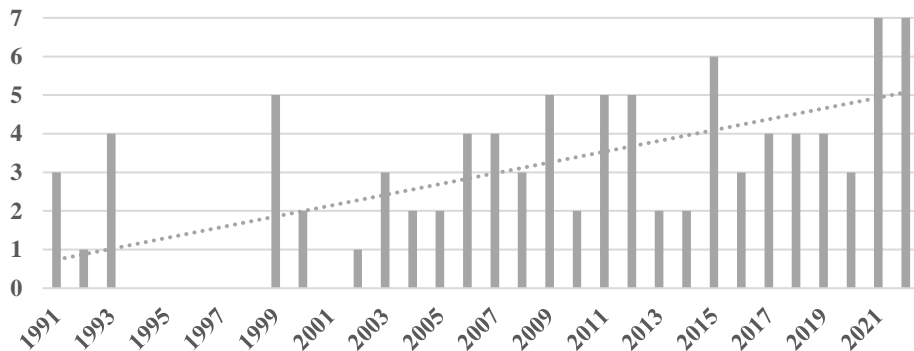
perform original analyses and to construct tables and figures in Sections I, II, and IV of this declaration are drawn from **Exhibit C**.

⁵ Because the analysis in Section IV of this Declaration necessarily uses data from 1991 through 2022, for purposes of consistency (and to avoid any confusion), the analyses in Sections I and II also use data from 1991 through 2022.

Table 1. The Deadliest Acts of Intentional Criminal Violence in the U.S. since 9/11

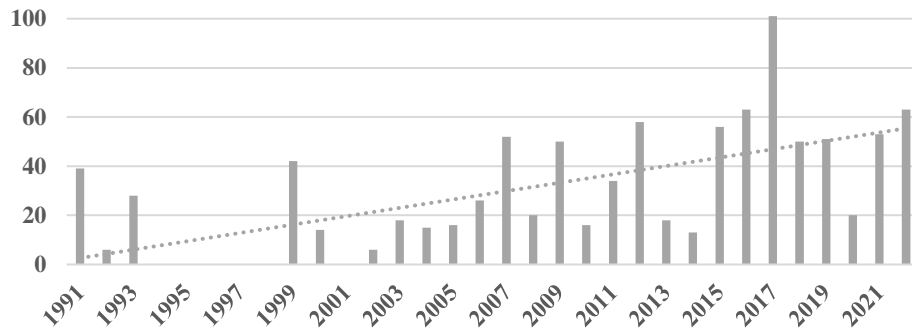
	Deaths	Date	Location	Type of Violence
1	60	October 1, 2017	Las Vegas, NV	Mass Shooting
2	49	June 12, 2016	Orlando, FL	Mass Shooting
3	32	April 16, 2007	Blacksburg, VA	Mass Shooting
4	27	December 14, 2012	Newtown, CT	Mass Shooting
5	25	November 5, 2017	Sutherland Springs, TX	Mass Shooting
6	23	August 3, 2019	El Paso, TX	Mass Shooting
7	21	May 24, 2022	Uvalde, TX	Mass Shooting

Figure 1. Annual Trends in High-Fatality Mass Shooting Incidents, 1991-2022



Note: The dotted line is a linear trendline. A linear trendline is a straight line that captures the overall pattern of the individual data points. When there is a positive relationship between the x-axis and y-axis variables, the trendline moves upwards from left to right. When there is a negative relationship between the x-axis and y-axis variables, the trendline moves downwards from left to right.

Figure 2. Annual Trends in High-Fatality Mass Shooting Fatalities, 1991-2022



Note: The dotted line is a linear trendline. A linear trendline is a straight line that captures the overall pattern of the individual data points. When there is a positive relationship between the x-axis and y-axis variables, the trendline moves upwards from left to right. When there is a negative relationship between the x-axis and y-axis variables, the trendline moves downwards from left to right.

II. THE USE OF ASSAULT WEAPONS AND LCMs ARE MAJOR FACTORS IN THE RISE OF MASS SHOOTING VIOLENCE

12. In addition to showing that the frequency and lethality of high-fatality mass shootings are on the rise nationally, the data point to another striking pattern: both assault weapons and LCMs are being used with increased frequency to perpetrate gun massacres.⁶ As shown in Figures 3-4, based on high-fatality mass

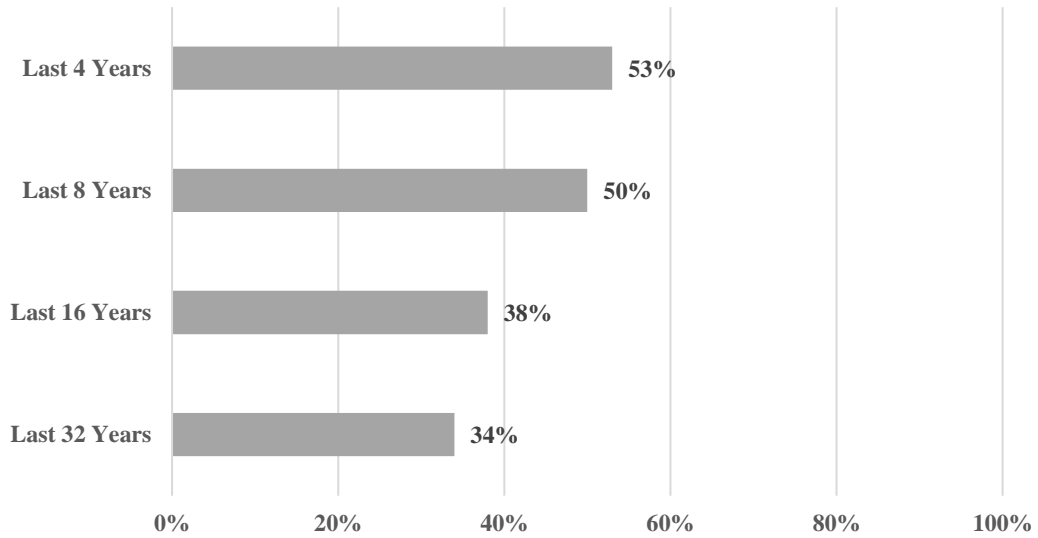
⁶ Assault weapons are generally semiautomatic firearms that fall into one of the following three categories: assault pistols, assault rifles, and assault shotguns. The State of Hawaii only restricts the “manufacture, possession, sale, barter, gift, transfer, or acquisition” of assault pistols. It does not restrict assault rifles and assault shotguns. HRS §§ 134-1, 134-8. LCMs are generally ammunition-feeding devices with a capacity greater than 10 bullets. HRS § 134-8. For purposes of this declaration, unless otherwise stated, assault weapons and LCMs will be defined in a manner consistent with the definitions used in **Exhibit C**. The modern-day roots of the term “assault weapons” can be traced back to the 1980s, when gun

shootings where details are available that allow a determination on the use of assault weapons and LCMs, the pattern is particularly marked of late, with over half of all incidents in the last four years involving assault weapons and all incidents in the last four years involving LCMs having a capacity greater than 10 bullets. As shown in Figures 5-6, a similar pattern is found when examining deaths in high-fatality mass shootings in the last four years, with 62% of deaths resulting from incidents involving assault weapons and 100% of deaths resulting from incidents involving LCMs. These trends clearly demonstrate that, among perpetrators of gun massacres, there is a growing preference for using assault weapons and LCMs to pull off their attacks.⁷

manufacturers branded military-style firearms with the label in an effort to make them more marketable to civilians. See, Violence Policy Center, *Assault Weapons and Accessories in America* (1988) (Attached as **Exhibit D**); Violence Policy Center, *Bullet Hoses: Semiautomatic Assault Weapons—What Are They? What’s So Bad about Them?* (2003) (Attached as **Exhibit E**); Phillip Peterson, *Gun Digest Buyer’s Guide to Assault Weapons* (2008) (Relevant Excerpt Attached as **Exhibit F**); and Erica Goode, “Even Defining ‘Assault Rifles’ Is Complicated,” *New York Times*, January 16, 2013, available at <https://www.nytimes.com/2013/01/17/us/even-defining-assault-weapons-is-complicated.html> (last accessed January 24, 2023).

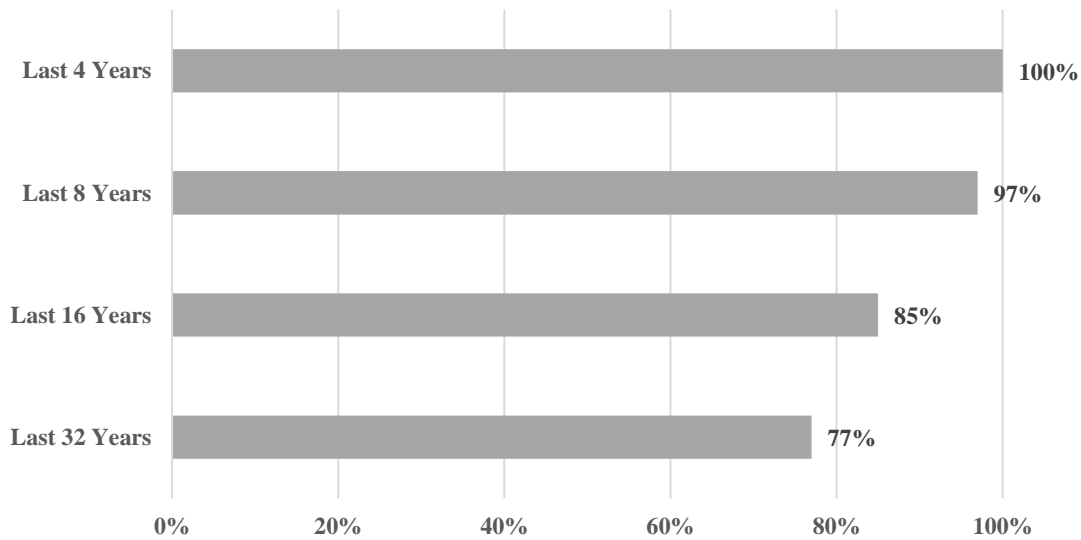
⁷ Out of all 93 high-fatality mass shootings in the United States between 1991 and 2022, it cannot be determined whether LCMs were used in 14 of those incidents. Furthermore, for 2 of these 14 incidents, it is also not possible to determine whether they involved assault weapons. Therefore, the tables, figures, and percentages discussed in this section of the Declaration are based on calculations that only use data points from the incidents in which the involvement of assault weapons or LCMs could be determined.

Figure 3. Share of High-Fatality Mass Shooting Incidents Involving Assault Weapons, 1991-2022



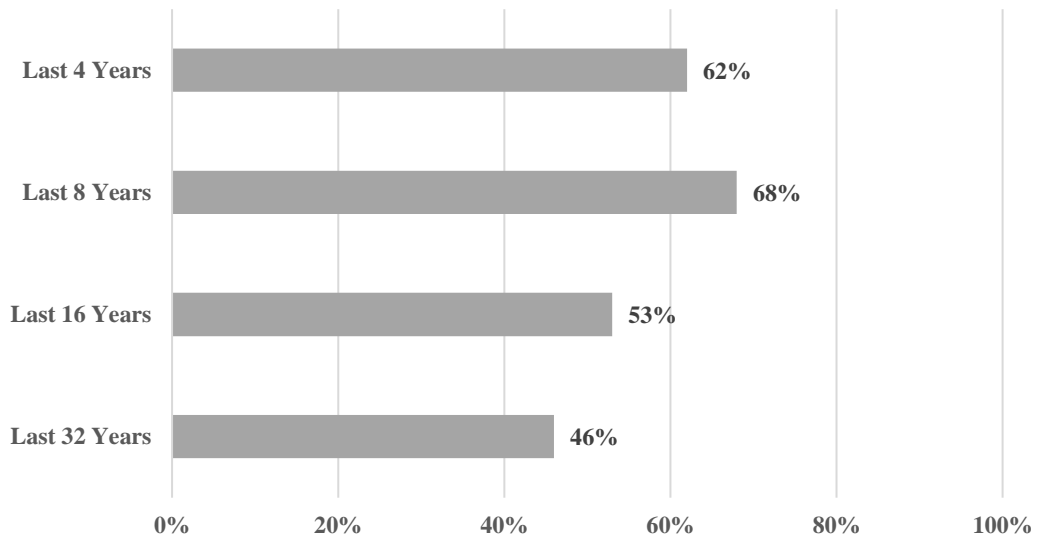
Note: The calculations in Figure 3 exclude incidents in which the firearms used are unknown.

Figure 4. Share of High-Fatality Mass Shooting Incidents Involving LCMs, 1991-2022



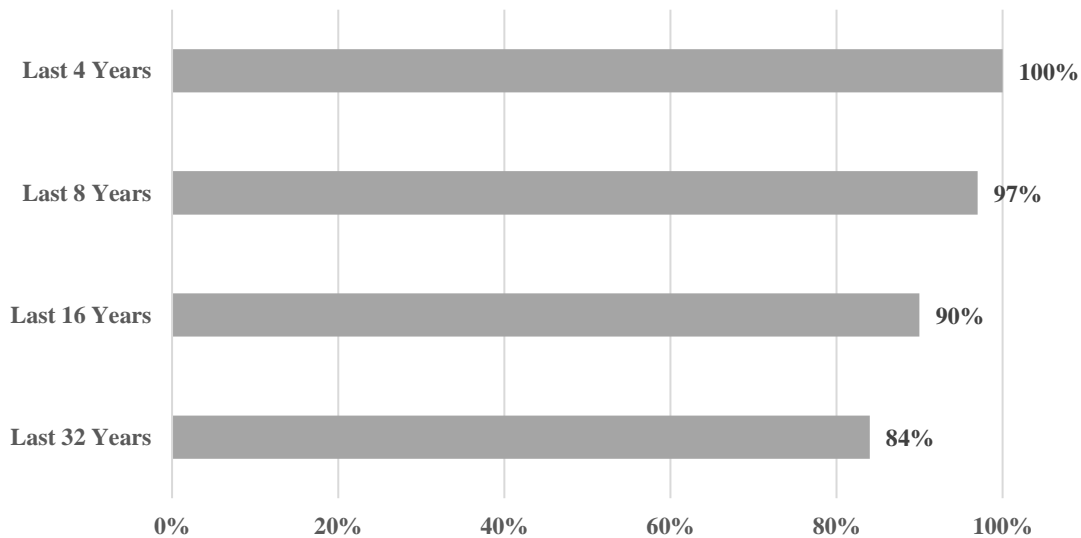
Note: The calculations in Figure 4 exclude incidents in which it is unknown if LCMs were used.

Figure 5. Share of High-Fatality Mass Shooting Deaths Resulting from Incidents Involving Assault Weapons, 1991-2022



Note: The calculations in Figure 5 exclude incidents in which the firearms used are unknown.

Figure 6. Share of High-Fatality Mass Shooting Deaths Resulting from Incidents Involving LCMs, 1991-2022



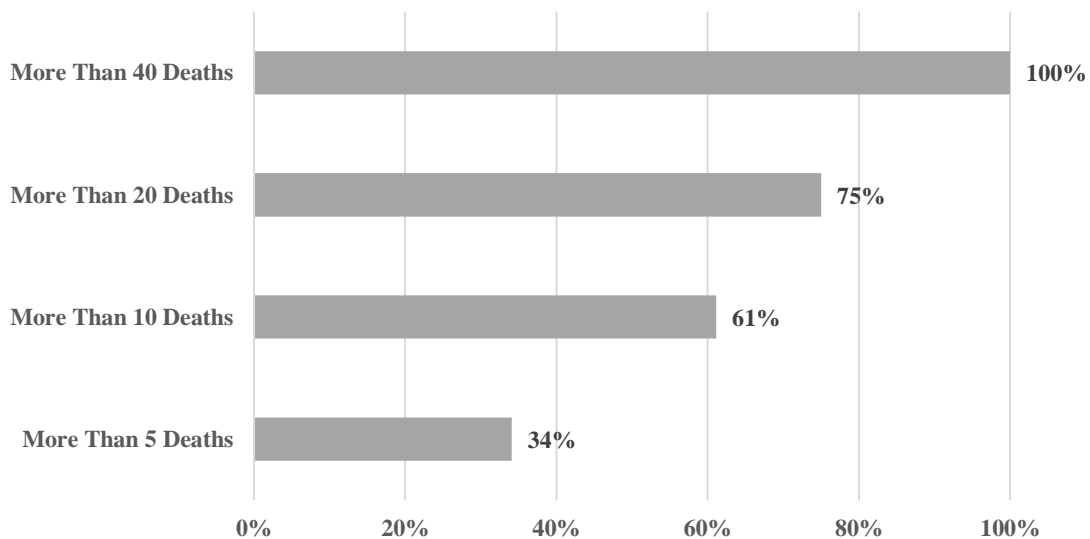
Note: The calculations in Figure 6 exclude incidents in which it is unknown if LCMs were used.

13. The growing use of assault weapons to carry out gun massacres is an obvious theme reflected in the data. Another pattern that stands out when examining the relationship between assault weapons use and mass shooting violence reflects the disproportionately greater lethality associated with the use of assault weapons and LCMs. Returning to the list of the 7 deadliest individual acts of intentional criminal violence in the United States since the coordinated terrorist attack of September 11, 2001, besides all seven of the incidents being mass shootings, two other prominent traits are that 6 of the 7 incidents (86%) involved assault weapons and all 7 incidents (100%) involved LCMs, as shown in Table 2. When examining all high-fatality mass shootings since 1991, the relationship between assault weapons use, LCM use, and higher death tolls is striking. In the past 32 years, assault weapons and LCMs have been used, respectively, in 34% and 77% of all high-fatality mass shootings. However, as the fatality thresholds of such incidents increase, so too do the shares of incidents involving assault weapons and LCMs. For instance, assault weapons and LCMs were used, respectively, in 75% and 100% of all mass shootings resulting in more than 20 deaths (Figures 7-8). As the data show, there is an association between mass shooting lethality and the use of assault weapons and LCMs.

Table 2. The Use of Assault Weapons and LCMs in the Deadliest Acts of Intentional Criminal Violence in the U.S. since 9/11

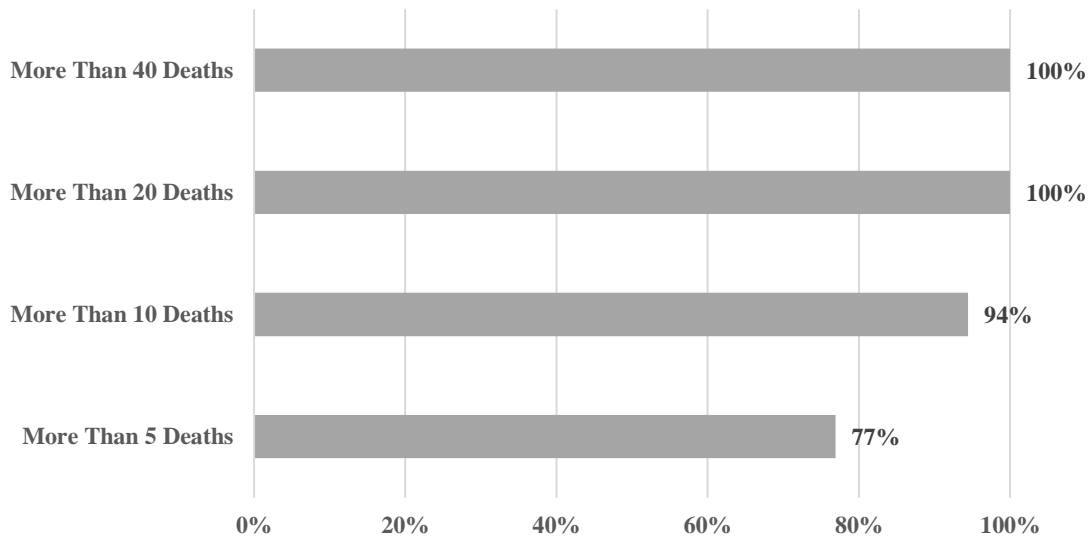
Deaths	Date	Location	Involved Assault Weapons	Involved LCMs
60	10/1/2017	Las Vegas, NV	✓ (AR-15)	✓
49	6/12/2016	Orlando, FL	✓ (AR-15)	✓
32	4/16/2007	Blacksburg, VA		✓
27	12/14/2012	Newtown, CT	✓ (AR-15)	✓
25	11/5/2017	Sutherland Springs, TX	✓ (AR-15)	✓
23	8/3/2019	El Paso, TX	✓ (AK-47)	✓
21	5/24/2022	Uvalde, TX	✓ (AR-15)	✓

Figure 7. Percentage of High-Fatality Mass Shootings Involving Assault Weapons by Fatality Threshold, 1991-2022



Note: The calculations in Figure 7 exclude incidents in which the firearms used are unknown.

Figure 8. Percentage of High-Fatality Mass Shootings Involving LCMs by Fatality Threshold, 1991-2022



Note: The calculations in Figure 8 exclude incidents in which it is unknown if LCMs were used.

14. Of the 91 high-fatality mass shootings since January 1, 1991, in which the type of firearm used is known, 31 involved assault weapons, resulting in 425 deaths. The average death toll for these 31 incidents is 13.7 fatalities per shooting. By contrast, the average death toll for the 60 incidents in which it is known assault weapons were not used (which resulted in 490 fatalities) is 8.2 fatalities per shooting (Table 3). When gun massacres that involved assault weapons are broken down into sub-categories of assault weapons (**Exhibit C**), there are 25 incidents that involved assault rifles (resulting in 372 deaths) and 6 incidents that involved assault pistols (resulting in 53 deaths). The average death toll for the former is

14.9 fatalities per incident and for the latter it is 8.8 fatalities per incident. Clearly, the use of assault rifles to perpetrate gun massacres, on average, resulted in deadlier outcomes. However, in either case (incidents involving assault rifles or incidents involving assault pistols), the use of assault weapons resulted in higher average death tolls than incidents not involving assault weapons. Furthermore, of the 79 high-fatality mass shootings since January 1, 1991, in which LCM use was determined, 61 involved LCMs, resulting in 704 deaths. The average death toll for these 61 incidents is 11.5 fatalities per shooting. The average death toll for the 18 incidents in which it is known LCMs were not used (which resulted in 132 fatalities) is 7.3 fatalities per shooting (Table 3). In other words, in the last 32 years, the use of assault weapons and LCMs in gun massacres has resulted, respectively, in 67% and 58% increases in average fatalities per incident (Table 3).

15. Table 4 shows the average death tolls per high-fatality mass shooting incident that are attributable to assault weapons beyond deaths associated with the use of LCMs. When LCMs are not used, the average death toll is 7.3 fatalities. When LCMs are used, but not in conjunction with assault weapons, the average death toll is 9.2 fatalities. When LCMs are used with assault weapons, the average death toll is 14.0 fatalities. The data show that using LCMs without an assault weapon resulted in a 26% increase in the average death toll. However, using LCMs with an assault weapon resulted in a 52% increase in the average death toll

associated with incidents that involved LCMs without assault weapons and a 92% increase in the average death toll associated with incidents that involved neither LCMs nor assault weapons. In other words, the increase in the death tolls for high-fatality mass shootings involving assault weapons appears to be partly attributable to LCMs and partly attributable to assault weapons, although as shown in the previous paragraph the bulk of these higher death tolls are associated with assault rifles.

16. This review of the data suggests that assault weapons *and* LCMs are force multipliers when used in mass shootings.

Table 3. The Average Death Tolls Associated with the Use of Assault Weapons and LCMs in High-Fatality Mass Shootings in the U.S., 1991-2022

	Average Death Toll for Incidents That Did Not Involve the Use of ...	Average Death Toll for Incidents That Did Involve the Use of ...	Percent Increase in Average Death Toll Associated with the Use of ...
Assault Weapons	8.2 Deaths	13.7 Deaths	67%
LCMs	7.3 Deaths	11.5 Deaths	58%

Note: The calculations in Table 3 exclude incidents in which the firearms used are unknown.

Table 4. The Average Death Tolls Associated with the Use of LCMs and Assault Weapons in High-Fatality Mass Shootings in the U.S., 1991-2022

Average Death Toll for Incidents Not Involving LCMs or AWs	Average Death Toll for Incidents Involving LCMs but Not AWs	Percent Increase	Average Death Toll for Incidents Involving LCMs but Not AWs	Average Death Toll for Incidents Involving LCMs and AWs	Percent Increase	Average Death Toll for Incidents Not Involving LCMs or AWs	Average Death Toll for Incidents Involving LCMs and AWs	Percent Increase
7.3	9.2	26%	9.2	14.0	52%	7.3	14.0	92%

Note: The calculations in Table 4 exclude incidents in which it is unknown if assault weapons or LCMs were used.

III. DOUBLE-DIGIT-FATALITY MASS SHOOTINGS ARE A POST-WORLD WAR II PHENOMENON IN AMERICAN HISTORY AND THEY INCREASINGLY INVOLVE ASSAULT WEAPONS

17. I have also examined the historical occurrence and distribution of mass shootings resulting in 10 or more victims killed since 1776 (Table 5 and Figure 9). A lengthy search uncovered several informative findings.⁸ In terms of the origins of this form of extreme gun violence, there is no known occurrence of a mass shooting resulting in double-digit fatalities at any point in time during the 173-year period between the nation's founding in 1776 and 1948. The first known

⁸ I searched for firearm-related "murders," using variations of the term, setting a minimum fatality threshold of 10 in the Newspaper Archive online newspaper repository, available at www.newspaperarchive.com (last accessed October 2, 2022). The Newspaper Archive contains local and major metropolitan newspapers dating back to 1607. Incidents of large-scale, inter-group violence such as mob violence, rioting, combat or battle skirmishes, and attacks initiated by authorities acting in their official capacity were excluded.

mass shooting resulting in 10 or more deaths occurred in 1949. In other words, for 70% of its 247-year existence as a nation, the United States did not experience a mass shooting resulting in double-digit fatalities, making them a relatively modern phenomena in American history.⁹

18. After the first such incident in 1949, 17 years passed until a similar mass shooting occurred in 1966. The third such mass shooting then occurred 9 years later, in 1975. And the fourth such incident occurred 7 years after, in 1982. Basically, the first few mass shootings resulting in 10 or more deaths did not occur until the post-World War II era. Furthermore, these first few double-digit-fatality incidents occurred with relative infrequency, although the temporal gap between these first four incidents shrank with each event (Table 5 and Figure 10).¹⁰

⁹ Using the Constitution's effective date of 1789 as the starting point would lead to the conclusion that, for 68% of its 234-year existence as a nation, the United States did not experience a mass shooting resulting in double-digit fatalities.

¹⁰ Figures 9-10 are reproduced in larger form as **Exhibit G** of this Declaration.

Table 5. Mass Shootings Resulting in Double-Digit Fatalities in U.S. History, 1776-2022

	Date	Location	Deaths	Involved Assault Weapon(s)	Involved LCM(s)
1	9/6/1949	Camden, NE	13	N	N
2	8/1/1966	Austin, TX	14	N	Y
3	3/30/1975	Hamilton, OH	11	N	N
4	9/25/1982	Wilkes-Barre, PA	13	Y	Y
5	2/18/1983	Seattle, WA	13	N	N
6	4/15/1984	Brooklyn, NY	10	N	N
7	7/18/1984	San Ysidro, CA	21	Y	Y
8	8/20/1986	Edmond, OK	14	N	N
9	10/16/1991	Killeen, TX	23	N	Y
10	4/20/1999	Littleton, CO	13	Y	Y
11	4/16/2007	Blacksburg, VA	32	N	Y
12	3/10/2009	Geneva County, AL	10	Y	Y
13	4/3/2009	Binghamton, NY	13	N	Y
14	11/5/2009	Fort Hood, TX	13	N	Y
15	7/20/2012	Aurora, CO	12	Y	Y
16	12/14/2012	Newtown, CT	27	Y	Y
17	9/16/2013	Washington, DC	12	N	N
18	12/2/2015	San Bernardino, CA	14	Y	Y
19	6/12/2016	Orlando, FL	49	Y	Y
20	10/1/2017	Las Vegas, NV	60	Y	Y
21	11/5/2017	Sutherland Springs, TX	25	Y	Y
22	2/14/2018	Parkland, FL	17	Y	Y
23	5/18/2018	Santa Fe, TX	10	N	N
24	10/27/2018	Pittsburgh, PA	11	Y	Y
25	11/7/2018	Thousand Oaks, CA	12	N	Y
26	5/31/2019	Virginia Beach, VA	12	N	Y
27	8/3/2019	El Paso, TX	23	Y	Y
28	3/22/2021	Boulder, CO	10	Y	Y
29	5/14/2022	Buffalo, NY	10	Y	Y
30	5/24/2022	Uvalde, TX	21	Y	Y

Note: Death tolls do not include perpetrators. An incident was coded as involving an assault weapon if at least one of the firearms discharged was defined as an assault weapon in (1) the 1994 Federal Assault Weapons Ban or (2) the statutes of the state where the gun massacre occurred. An incident was coded as involving an LCM if at least one of the firearms discharged had an ammunition-feeding device holding more than 10 bullets.

Figure 9. Mass Shootings Resulting in Double-Digit Fatalities in U.S. History, 1776-2022

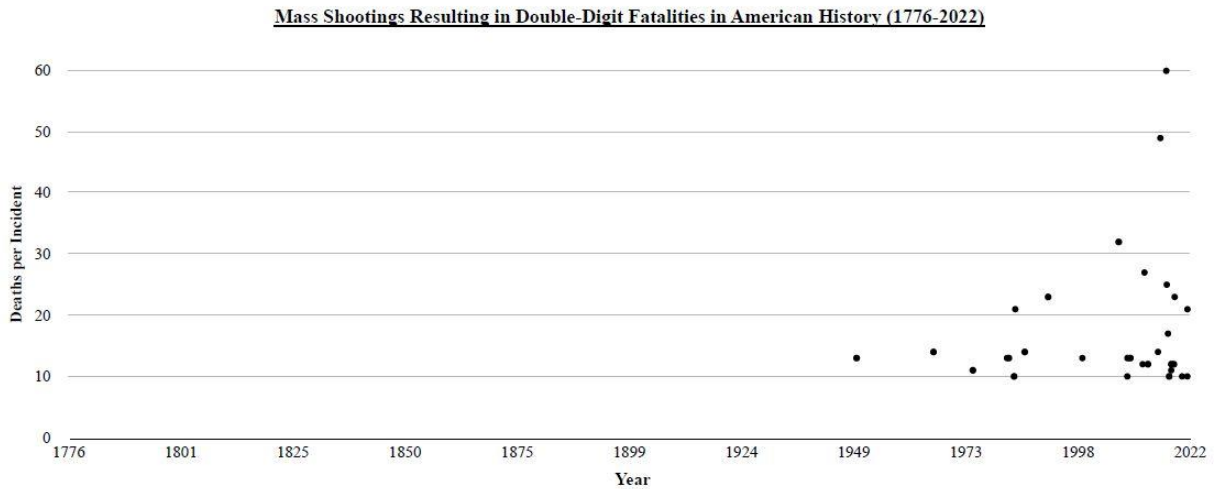
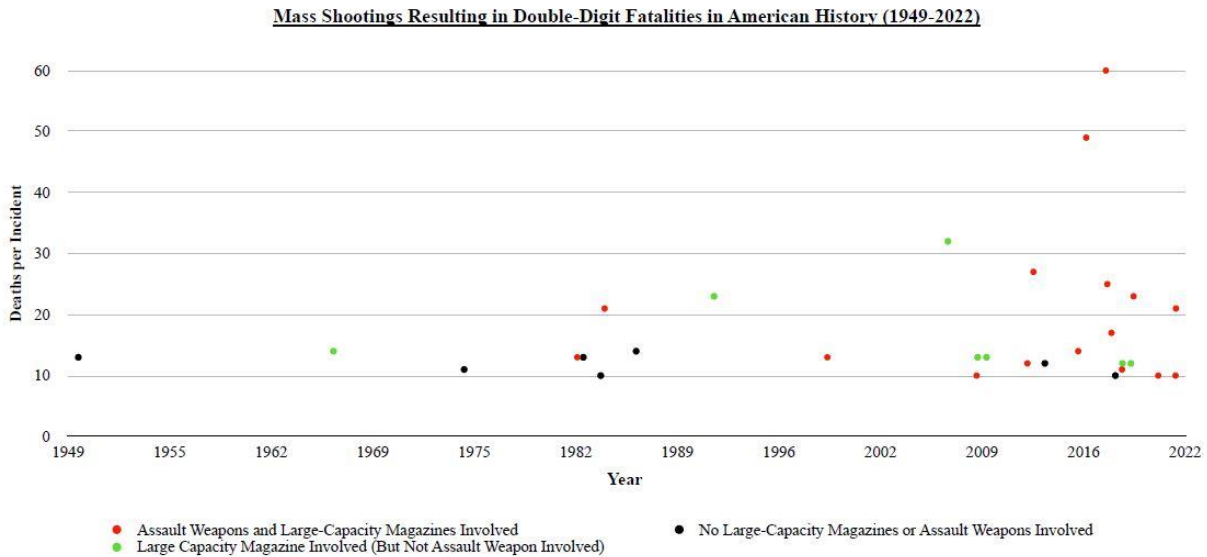


Figure 10. Mass Shootings Resulting in Double-Digit Fatalities in U.S. History, 1949-2022



19. The distribution of double-digit-fatality mass shootings changes in the early 1980s, when five such events took place in a span of just five years. (Table 5 and Figure 10). This timeframe also reflects the first time that assault weapons were used to perpetrate mass shootings resulting in 10 or more deaths: the 1982 Wilkes-Barre, PA, massacre (involving an AR-15 rifle and resulting in 13 deaths) and the 1984 San Ysidro, CA, massacre (involving an Uzi pistol and resulting in 21 deaths). But this cluster of incidents was followed by a 20-year period in which only 2 double-digit-fatality mass shootings occurred (Figure 10). This period of time from 1987-2007 correlates with three important federal firearms measures: the 1986 Firearm Owners Protection Act, the 1989 C.F.R. “sporting use” importation restrictions, and the 1994 Federal Assault Weapons Ban.

20. It is well-documented in the academic literature that, after the Federal Assault Weapons Ban expired in 2004, mass shooting violence increased substantially.¹¹ Mass shootings that resulted in 10 or more deaths were no

¹¹ See, for example, Louis Klarevas, *supra* note 1 (Relevant Excerpt Attached as **Exhibit H**); Louis Klarevas, et al., *supra* note 2 (Attached as **Exhibit I**); Charles DiMaggio, et al., “Changes in US Mass Shooting Deaths Associated with the 1994-2004 Federal Assault Weapons Ban: Analysis of Open-Source Data,” 86 *Journal of Trauma and Acute Care Surgery* 11 (2019) (Attached as **Exhibit J**); Lori Post, et al., “Impact of Firearm Surveillance on Gun Control Policy: Regression Discontinuity Analysis,” 7 *JMIR Public Health and Surveillance* (2021) (Attached as **Exhibit K**); and Philip J. Cook and John J. Donohue, “Regulating Assault Weapons and Large-Capacity Magazines for Ammunition,” 328 *JAMA*, September 27, 2022 (Attached as **Exhibit L**).

exception, following the same pattern. In the 56 years from 1949 through 2004, there were a total of 10 mass shootings resulting in double-digit fatalities (a frequency rate of one incident every 5.6 years). In the 18 years since 2004, there have been 20 double-digit-fatality mass shootings (a frequency rate of one incident every 0.9 years). In other words, the frequency rate has increased over six-fold since the Federal Assault Weapons Ban expired (Table 5 and Figure 10). (The 1994 Federal Assault Weapons Ban and its impact on mass shooting violence is discussed in further detail in Section IV of this declaration.)

21. Over three-quarters of the mass shootings resulting in 10 or more deaths involved assault weapons and/or LCMs (Table 5). As also shown in the analyses of mass shootings in Section II, death tolls in double-digit-fatality mass shootings are related to the use of firearm technologies like assault weapons and LCMs that, in terms of mass shootings, serve as force multipliers.

IV. RESTRICTIONS ON ASSAULT WEAPONS AND LCMs REDUCE THE INCIDENCE OF GUN MASSACRES, RESULTING IN LIVES SAVED

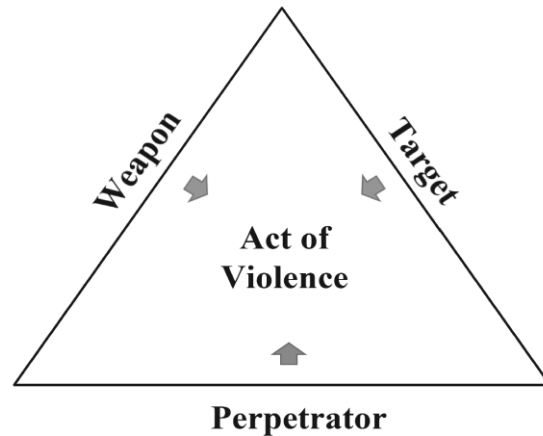
A. THE OPERATIVE MECHANISM OF ASSAULT WEAPONS BANS: SUPPRESSION AND SUBSTITUTION EFFECTS

22. As conceptualized in the Trinity of Violence model that I developed in my book on mass shootings, every act of violence involves three elements: a perpetrator, a weapon, and a target (Figure 11).¹² The key to mitigating violence is

¹² Klarevas, *supra* note 1, at 27-29, 229-238.

to “break the trinity” by hindering at least one of the three elements. This is accomplished by dissuading the potential offender(s), denying the potential instrument(s) of violence, or defending the potential victim(s).¹³

Figure 11. The Trinity of Violence



23. Bans are law-based concepts that prohibit certain behaviors by criminalizing them.¹⁴ Bans on assault weapons and LCMs generally make it illegal to manufacture, import, transfer, own, or possess certain firearms and certain magazines. Bans work in relation to two of the three elements of the Trinity of Violence: dissuasion and denial. With regard to perpetrators, bans use the threat of criminal penalty to *deter potential offenders* from engaging in the prohibited

¹³ Ibid.

¹⁴ Philip J. Cook, “Research in Criminal Deterrence: Laying the Groundwork for the Second Decade,” 2 *Crime and Justice* 211 (1980); and Daniel S. Nagin, “Deterrence in the Twenty-First Century,” 42 *Crime and Justice* 199 (2013).

behavior. In the case of bans on assault weapons and LCMs, they threaten conviction, imprisonment, and/or fines should an individual build or otherwise acquire a prohibited assault weapon or LCM. The primary mechanism at work here centers around dissuading potential shooters from trying to acquire banned firearm technologies. But there is also a secondary mechanism at work, focused on the assault weapon or LCM itself: *deprive potential instruments of violence*.

Knowing that someone who is willing to commit murder might not be deterred from violating another criminal law, like possessing a prohibited item, bans on assault weapons and LCMs also threaten punishment against anyone who tries to transfer (through sale, gift, or loan) a restricted item to someone who is prohibited from acquiring it. This, in essence, reinforces the strategy of dissuading the offender with the strategy of denying the instruments of violence.

24. Ideally, someone intent on committing a mass shooting with an assault weapon and/or LCM would be dissuaded from going on a rampage by the fact that their means of choice are not available. In such a scenario, the attack would be quashed. This *suppression effect* is akin to what economists and psychologists refer to as a positive spillover effect, where one desirable outcome produces a second, loosely-related desirable outcome.¹⁵ A real-world example of

¹⁵ Paul Dolan and Mateo M. Galizzi, “Like Ripples on a Pond: Behavioral Spillovers and Their Implications for Research and Policy,” 47 *Journal of Economic Psychology* 1 (2015); K. Jane Muir and Jessica Keim-Malpass,

this is the so-called “Matrix Killings,” where a 19-year-old Virginia man blamed *The Matrix* film for driving him to murder his parents with a shotgun (that did not have an LCM). At the time of the crime in 2003, the federal Assault Weapons Ban was in effect, preventing him from obtaining an assault rifle and LCMs. In a 2013 jailhouse interview, he told CNN, “If I had an assault weapon, things would have been much worse.” He added that had he had an AR-15 instead of a shotgun, he is positive that, after killing his parents, he would have gone on a rampage and “killed as many people as I possibly could.” As he noted, “because I didn’t have an assault weapon, that didn’t happen.”¹⁶ In this case, the unavailability of an assault weapon due to the federal ban suppressed the perpetrator’s impulse to commit a mass shooting.

25. Of course, some potential mass shooters will not be discouraged from going on a killing spree just because their means of choice are unavailable. They will instead replace their desired instruments of violence with available alternatives. This is commonly referred to as the *substitution effect*, wherein an act of violence is still perpetrated, but with a different, less lethal instrument of

“Analyzing the Concept of Spillover Effects for Expanded Inclusion in Health Economics Research,” 9 *Journal of Comparative Effectiveness Research* 755 (2020).

¹⁶ “Inside the Mind of a Killer,” CNN (Transcripts), August 23, 2013, available at <https://transcripts.cnn.com/show/pmt/date/2013-08-23/segment/01> (last accessed January 24, 2023).

violence.¹⁷ A real-world example of the substitution effect at work is the 2019 synagogue rampage in Poway, California. In that attack, the gunman appears to have been unable to acquire an assault rifle and LCMs due to California's ban on both. Instead, he acquired what is known as a California-compliant semiautomatic rifle (which lacked features such as a pistol grip and a forward hand grip) and 10-round magazines. As a result, the gunman quickly ran out of bullets, and while pausing to reload—which appears to have been extremely difficult given that he did not have assault weapon features on his rifle that facilitated fast reloading—a congregant chased him away, preventing him from continuing his attack.¹⁸ In this incident, which resulted in one death, California's ban on assault weapons and LCMs worked exactly as intended. It prevented the active shooter from being able to kill enough people to surpass the fatality threshold of a mass shooting. Stated differently, if you examine data sets that identify shootings resulting in mass murder, you will not find the Poway synagogue attack on their lists.

¹⁷ Philip J. Cook, "The Effect of Gun Availability on Violent Crime Patterns," 455 *Annals of the American Academy of Political and Social Science* 63 (1981); Anthony A. Braga, et al. "Firearm Instrumentality: Do Guns Make Violent Situations More Lethal?" 4 *Annual Review of Criminology* 147 (2021).

¹⁸ Elliot Spagat and Julie Watson, "Synagogue Shooter Struggled with Gun, Fled with 50 Bullets," Associated Press, April 30, 2019, *available at* <https://apnews.com/article/shootings-north-america-us-news-ap-top-news-ca-state-wire-8417378d6b934a8f94e1ea63fd7c0aea> (last accessed January 24, 2023).

26. It might seem perverse to think that restrictions on certain instruments of violence operate on the premise that, if an act of violence cannot be averted, then it will proceed with an alternative instrument. Nevertheless, this is exactly how bans on assault weapons and LCMs work in theory. They suppress the inclinations of potential mass shooters to go on killing rampages in the first place because their means of choice are unavailable. And, should deterrence fail, bans force perpetrators to substitute less lethal instruments for more dangerous, prohibited ones, reducing the casualty tolls of attacks when they do occur.

B. THE OPERATIVE MECHANISM OF LCM BANS: FORCING PAUSES IN ACTIVE SHOOTINGS

27. Restrictions on assault weapons and LCMs also address the multiple advantages LCMs provide to active shooters. Offensively, LCMs increase kill potential. Basically, the more bullets a shooter can fire at a target within a finite amount of time, the more potential wounds they can inflict. Furthermore, the more bullets that strike a victim, the higher the odds that that person will die. These two factors—sustained-fire capability and multiple-impact capability—allow LCMs to increase a shooter’s kill potential.

28. When inserted into either a semiautomatic or fully-automatic firearm, an LCM facilitates the ability of an active shooter to fire a large number of rounds at an extremely quick rate without pause. This phenomenon—sustained-fire capability—comes in handy when a target is in a gunman’s line of sight for only a

few seconds. For example, sustained-fire capability allows a reasonably competent shooter to fire three rounds per second with a semiautomatic firearm and ten rounds per second with an automatic firearm. That results in numerous chances to hit a target in a short window of opportunity, especially when ammunition capacity is large.

29. LCMs also facilitate the ability of a shooter to strike a human target with more than one round. This phenomenon—multiple-impact capability—increases the chances that the victim, when struck by multiple rounds, will die. At least two separate studies have found that, when compared to the fatality rates of gunshot wound victims who were hit by only a single bullet, the fatality rates of those victims hit by more than one bullet were over 60 percent higher.¹⁹ The implication is straightforward: being able to strike human targets with more than one bullet increases a shooter’s chances of killing their victims. In essence, LCMs are force multipliers when it comes to kill potential—and the evidence from gun massacres supports this conclusion (*see* Section II).

30. In addition to offensive advantages, LCMs also provide the defensive advantage of extended cover. During an active shooting, a perpetrator is either

¹⁹ Daniel W. Webster, et al., “Epidemiologic Changes in Gunshot Wounds in Washington, DC, 1983–1990,” 127 *Archives of Surgery* 694 (June 1992); Angela Sauaia, et al., “Fatality and Severity of Firearm Injuries in a Denver Trauma Center, 2000–2013,” 315 *JAMA* 2465 (June 14, 2016).

firing their gun or not firing their gun. While pulling the trigger, it is difficult for those in harm's way to take successful defensive maneuvers. But if the shooter runs out of bullets, there is a lull in the shooting. This precious downtime affords those in the line of fire with a chance to flee, hide, or fight back.

31. There are several examples of individuals fleeing or taking cover while active shooters paused to reload. For instance, in 2012, several first-graders at Sandy Hook Elementary School in Newtown, Connecticut, escaped their attacker as he was swapping out magazines, allowing them to exit their classroom and dash to safety.²⁰ Other well-known examples include the 2007 Virginia Tech and the 2018 Borderline Bar and Grill rampages.²¹ There is also the possibility that someone will rush an active shooter and try to tackle them (or at the very least try to wrestle their weapon away from them) while they pause to reload.²² In

²⁰ See Dave Altimari, et al., "Shooter Paused and Six Escaped," *Hartford Courant*, December 23, 2012 (Attached as **Exhibit M**).

²¹ Virginia Tech Review Panel, Mass Shootings at Virginia Tech, April 16, 2007: Report of the Virginia Tech Review Panel Presented to Governor Kaine, Commonwealth of Virginia, Revised with Addendum, November 2009, available at <https://scholar.lib.vt.edu/prevail/docs/April16ReportRev20091204.pdf> (last accessed February 1, 2023); "California Bar Shooting: Witnesses Describe Escaping as Gunman Reloaded," CBS News, December 7, 2018, available at <https://www.cbsnews.com/news/borderline-bar-shooting-thousand-oaks-california-12-dead-witnesses-describe-gunman-storming-in> (last accessed February 1, 2023).

²² The longer a shooter can fire without interruption, the longer they can keep potential defenders at bay. The longer potential defenders are kept from physically confronting a shooter, the more opportunity there is for the shooter to inflict damage.

recent history, there have been numerous instances of gunmen being physically confronted by unarmed civilians while reloading, bringing their gun attacks to an abrupt end. Prominent examples include the 1993 Long Island Rail Road, the 2011 Tucson shopping center, the 2018 Nashville Waffle House, and the 2022 Laguna Woods church shooting rampages.²³ When there are pauses in the shooting to reload, opportunities arise for those in the line of fire to take life-saving action.

C. BANS ON ASSAULT WEAPONS AND LCMs IN PRACTICE

32. In light of the growing threat posed by mass shootings, legislatures have enacted restrictions on assault weapons and LCMs in an effort to reduce the occurrence and lethality of such deadly acts of firearm violence. Prominent among these measures was the 1994 Federal Assault Weapons Ban. In September 1994,

²³ See, Rich Schapiro, “LIRR Massacre 20 Years Ago: ‘I Was Lucky,’ Says Hero Who Stopped Murderer,” *New York Daily News*, December 7, 2013, available at <http://www.nydailynews.com/new-york/nyc-crime/lirr-massacre-20-years-lucky-hero-stopped-murderer-article-1.1540846> (last accessed February 1, 2023); Sam Quinones and Nicole Santa Cruz, “Crowd Members Took Gunman Down,” *Los Angeles Times*, January 9, 2011, available at <https://www.latimes.com/archives/la-xpm-2011-jan-09-la-na-arizona-shooting-heroes-20110110-story.html> (last accessed February 1, 2023); Brad Schmitt, “Waffle House Hero: Could You Rush Toward a Gunman Who Just Killed People?” *The Tennessean*, April 24, 2018, available at <https://www.tennessean.com/story/news/crime/2018/04/24/waffle-house-hero-could-you-rush-toward-gunman-who-just-killed-people/543943002> (last accessed February 1, 2023); “Parishioners Stop Gunman in Deadly California Church Attack,” NPR, May 16, 2022, available at <https://www.npr.org/2022/05/16/1099168335/parishioners-stop-gunman-in-california-church-shooting> (last accessed February 1, 2023).

moved to action by high-profile shooting rampages that occurred the previous year at a San Francisco law firm and on a Long Island Rail Road commuter train, the U.S. Congress enacted a ban on assault weapons and LCMs that applied to all 50 states plus the District of Columbia, bringing the entire country under the ban.²⁴

33. Like the state bans on assault weapons and LCMs that were implemented before it, the federal ban was aimed primarily at reducing mass shooting violence—an objective the ban sought to achieve by prohibiting the manufacture, importation, possession, and transfer of assault weapons and LCMs not legally owned by civilians prior to the date of the law’s effect (September 13, 1994).²⁵ Congress, however, inserted a sunset provision in the law which allowed the federal ban to expire in exactly 10 years, if it was not renewed beforehand. As Congress ultimately chose not to renew the law, the federal ban expired on September 13, 2004. In the aftermath of the federal ban’s expiration, mass shooting violence in the United States increased substantially.²⁶

²⁴ Pub. L. No. 103-322, tit. XI, subtit. A, 108 Stat. 1796, 1996-2010 (codified as former 18 U.S.C. § 922(v), (w)(1) (1994)).

²⁵ Christopher Ingraham, “The Real Reason Congress Banned Assault Weapons in 1994—and Why It Worked,” *Washington Post*, February 22, 2018, available at <https://www.washingtonpost.com/news/wonk/wp/2018/02/22/the-real-reason-congress-banned-assault-weapons-in-1994-and-why-it-worked> (last accessed January 2, 2023).

²⁶ See sources cited *supra* note 11.

34. The legislative intent of Hawaii is similar to that of other legislative bodies that have restricted assault weapons and LCMs: reducing gun violence, especially the frequency and lethality of mass shootings. Because, on average, the use of assault weapons and LCMs results in higher death tolls in mass shootings, the rationale for imposing restrictions on assault weapons and LCMs is to reduce the loss of life associated with the increased kill potential of such firearm technologies.

35. Currently, 30% of the U.S. population is subject to a ban on both assault weapons and LCMs. The following is a list of the ten state-level jurisdictions that presently restrict both assault weapons and LCMs: New Jersey (September 1, 1990); Hawaii (July 1, 1992, assault pistols only); Maryland (June 1, 1994, initially assault pistols but expanded to long guns October 1, 2013); Massachusetts (July 23, 1998); California (January 1, 2000); New York (November 1, 2000); the District of Columbia (March 31, 2009); Connecticut (April 4, 2013); Delaware (August 29, 2022); and Illinois (January 10, 2023).²⁷ As a reminder, from September 13, 1994, through September 12, 2004, the entire country was also subject to a federal ban on both assault weapons and LCMs.

²⁷ The dates in parentheses mark the effective dates on which the listed states became subject to bans on both assault weapons and LCMs.

36. In the field of epidemiology, a common method for assessing the impact of laws and policies is to measure the rate of onset of new cases of an event, comparing the rate when and where the laws and policies were in effect against the rate when and where the laws and policies were not in effect. This measure, known as the incidence rate, allows public health experts to identify discernable differences, while accounting for variations in the population, over a set period of time. Relevant to the present case, calculating incidence rates across states, in a manner that captures whether or not bans on both assault weapons and LCMs were in effect during the period of observation, allows for the assessment of the effectiveness of such bans. In addition, fatality rates—the number of deaths, per population, that result from particular events across different jurisdictions—also provide insights into the impact bans on assault weapons and LCMs have on mass shooting violence.²⁸

37. Since September 1, 1990, when New Jersey became the first state to ban both assault weapons and LCMs, through December 31, 2022, there have been

²⁸ For purposes of this declaration, incidence and fatality rates are calculated using methods and principles endorsed by the Centers for Disease Control. *See* Centers for Disease Control and Prevention, *Principles of Epidemiology in Public Health Practice: An Introduction to Applied Epidemiology and Biostatistics* (2012), available at <https://stacks.cdc.gov/view/cdc/13178> (last accessed January 3, 2023).

93 high-fatality mass shootings in the United States (**Exhibit C**).²⁹ Calculating incidence and fatality rates for this time-period, across jurisdictions with and without bans on both assault weapons and LCMs, reveals that states subject to such bans experienced a 56% decrease in high-fatality mass shooting incidence rates. States that restrict both assault weapons and LCMs also experienced a 66% decrease in high-fatality mass shooting fatality rates, regardless of whether assault weapons or LCMs were used (Table 6).³⁰

38. When calculations go a step further and are limited to mass shootings involving assault weapons or LCMs, the difference between the two jurisdictional categories is even more pronounced. In the time-period from January 1, 1991, through December 31, 2022, accounting for population, states with bans on both assault weapons and LCMs experienced a 62% decrease in the rate of high-fatality mass shootings involving the use of assault weapons or LCMs. Similarly,

²⁹ There were no state bans on both assault weapons and LCMs in effect prior to September 1, 1990. Therefore, January 1, 1991, is a logical starting point for an analysis of the impact of bans on assault weapons and LCMs. As there were no high-fatality mass shootings in the last four months of 1990, extending the analysis back to September 1, 1990, would make no difference.

³⁰ Between September 13, 1994, and September 12, 2004, the Federal Assault Weapons Ban was in effect. During that 10-year period, all 50 states and the District of Columbia were under legal conditions that restricted assault weapons and LCMs. As such, the entire country is coded as being under a ban on both assault weapons and LCMs during the timeframe that the Federal Assault Weapons Ban was in effect.

jurisdictions with such bans in effect experienced a 72% decrease in the rate of deaths resulting from high-fatality mass shootings perpetrated with assault weapons or LCMs (Table 6).³¹

39. All of the above epidemiological calculations lead to the same conclusion: when bans on assault weapons and LCMs are in effect, per capita, fewer high-fatality mass shootings occur and fewer people die in such shootings—especially incidents involving assault weapons or LCMs, where the impact is most striking.

40. The main purpose of bans on assault weapons and LCMs is to restrict the availability of assault weapons and LCMs. The rationale is that, if there are fewer assault weapons and LCMs in circulation, then potential mass shooters will either be dissuaded from attacking or they will be forced to use less-lethal firearm technologies, resulting in fewer lives lost.

³¹ While numerous states restrict assault weapons, Hawaii is the only state in the United States that restricts *only* assault pistols, and there has never been a high-fatality mass shooting in Hawaii involving an assault pistol. Assessing the effect of Hawaii's assault pistol ban by comparing it to the other 49 states plus the District of Columbia will only show that Hawaii has avoided any such incidents. However, it is important to remember the broader context in this comparison, which is that there have been 6 high-fatality mass shootings involving assault pistols in the United States between 1990-2022. Regardless, the key takeaway from the epidemiological analysis in this section is that states that restrict assault weapons *of any kind* and LCMs experience fewer gun massacre incidents and deaths, per capita, than those states that do not restrict these firearm technologies.

41. Moreover, forcing active shooters to reload creates critical pauses in an attack. These pauses provide opportunities for people in the line of fire to take life-saving measures (such as fleeing the area, taking cover out of the shooter's sight, and fighting back), which in turn can help reduce casualties.

42. The epidemiological data lend support to the policy choices of Hawaii that seek to enhance public safety through restrictions on civilian access to certain types of firearms and magazines. While imposing constraints on assault weapons and LCMs will not prevent every mass shooting, the data suggest that legislative efforts to restrict such instruments of violence should result in lives being saved.

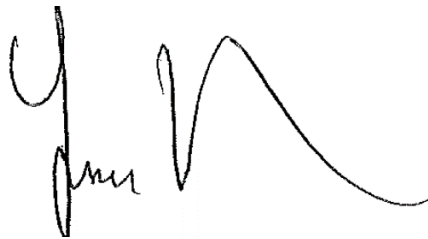
Table 6. Incidence and Fatality Rates for High-Fatality Mass Shootings, by Whether or Not Bans on Assault Weapons and LCMs Were in Effect, 1991-2022

	Annual Average Population (Millions)	Total Incidents	Annual Incidents per 100 Million Population	Total Deaths	Annual Deaths per 100 Million Population
All High-Fatality Mass Shootings					
Non-Ban States	162.0	68	1.31	720	13.89
Ban States	135.8	25	0.58	208	4.79
Percentage Decrease in Rate for Ban States			56%		66%
High-Fatality Mass Shootings Involving Assault Weapons or LCMs					
Non-Ban States	162.0	47	0.91	575	11.09
Ban States	135.8	15	0.35	135	3.11
Percentage Decrease in Rate for Ban States			62%		72%

Note: Population data are from U.S. Census Bureau, “Population and Housing Unit Estimates Datasets,” available at <https://www.census.gov/programs-surveys/popest/data/data-sets.html> (last accessed January 3, 2023).

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

DATED: Nassau County, New York, February 14, 2023.



LOUIS KLAREVAS

Louis J. Klarevas
Email: ljkl2149@tc.columbia.edu

Education

Ph.D. International Relations, 1999
School of International Service
American University
Washington, DC

B.A. Political Science, *Cum Laude*, 1989
School of Arts and Sciences
University of Pennsylvania
Philadelphia, PA

Author

Rampage Nation: Securing America from Mass Shootings

Current Positions

Research Professor, Teachers College, Columbia University, New York, NY, 2018-Present

Faculty Affiliate, Media and Social Change Lab (MASCLab), Teachers College, Columbia University, New York, NY, 2019-Present

Professional Experience

Academic Experience (Presented in Academic Years)

Associate Lecturer, Department of Global Affairs, University of Massachusetts – Boston, Boston, MA, 2015-2020

Senior Fulbright Scholar (Security Studies), Department of European and International Studies, University of Macedonia, Thessaloniki, Greece, 2011-2012

Founder and Coordinator, Graduate Transnational Security Program, Center for Global Affairs, New York University, New York, NY, 2009-2011

Faculty Affiliate, A. S. Onassis Program in Hellenic Studies, New York University, New York, NY, 2007-2011

Clinical Faculty, Center for Global Affairs, New York University, New York, NY, 2006-2011

Adjunct Professor, Center for Global Affairs, New York University, New York, NY, 2004-2006

Assistant Professor of Political Science, City University of New York – College of Staten Island, Staten Island, NY, 2003-2006

Associate Fellow, European Institute, London School of Economics and Political Science, London, England, UK, 2003-2004

Defense Analysis Research Fellow, London School of Economics and Political Science, London, England, UK, 2002-2004

Visiting Assistant Professor of Political Science and International Affairs, George Washington University, Washington, DC, 1999-2002

Adjunct Professor of Political Science, George Washington University, Washington, DC, 1998-1999

Adjunct Professor of International Relations, School of International Service, American University, Washington, DC, 1994-1995

Dean's Scholar, School of International Service, American University, Washington, DC, 1989-1992

Professional Experience (Presented in Calendar Years)

Consultant, National Joint Terrorism Task Force, Federal Bureau of Investigation, Washington, DC, 2015

Writer, Prometheus Books, Amherst, NY, 2012-2015

Consultant, United States Institute of Peace, Washington, DC, 2005, 2008-2009

Research Associate, United States Institute of Peace, Washington, DC, 1992-1998

Faculty Advisor, National Youth Leadership Forum, Washington, DC, 1992

Courses Taught

Graduate

Counter-Terrorism and Homeland Security
International Political Economy
International Politics in a Post-Cold War Era
International Security
Machinery and Politics of American Foreign Policy
Role of the United States in World Affairs
Security Policy
Theories of International Politics
Transnational Security
Transnational Terrorism
United States Foreign Policy

Undergraduate

American Government and Politics
European-Atlantic Relations
International Political Economy
International Relations
Transnational Terrorism
United States Foreign Policy

Scholarship

“State Firearm Laws, Gun Ownership, and K-12 School Shootings: Implications for School Safety,” *Journal of School Violence*, 2022 (co-authored with Paul M. Reeping, Sonali Rajan, et al.)

“The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990-2017,” *American Journal of Public Health*, November 2019 (co-authored with Andrew Conner and David Hemenway)

“Changes in U.S. Mass Shooting Deaths Associated with the 1994-2004 Federal Assault Weapons Ban,” *Journal of Trauma and Acute Care Surgery*, May 2019 (correspondence)

Firearms on College Campuses: Research Evidence and Policy Implications, report prepared by the Johns Hopkins University Center for Gun Policy and Research for the Association of American Universities, October 2016 (co-authored with Daniel W. Webster, John J. Donohue, et al.)

Rampage Nation: Securing America from Mass Shootings, Prometheus Books, 2016

“No Relief in Sight: Barring *Bivens* Suits in Torture Cases,” *Presidential Studies Quarterly*, June 2013

Review of James Edward Miller’s *The United States and the Making of Modern Greece: History and Power, 1950-1974*, *Presidential Studies Quarterly*, June 2012 (book review)

“Trends in Terrorism Since 9/11,” *Georgetown Journal of International Affairs*, Winter/Spring 2011

“The Death Penalty Should Be Decided Only Under a Specific Guideline,” in Christine Watkins, ed., *The Ethics of Capital Punishment* (Cengage/Gale Publishers, 2011)

Saving Lives in the ‘Convoy of Joy’: Lessons for Peace-Keeping from UNPROFOR, United States Institute of Peace Case Study, 2009

“Casualties, Polls and the Iraq War,” *International Security*, Fall 2006 (correspondence)

“The CIA Leak Case Indicting Vice President Cheney’s Chief of Staff,” *Presidential Studies Quarterly*, June 2006

“Were the Eagle and the Phoenix Birds of a Feather? The United States and the 1967 Greek Coup,” *Diplomatic History*, June 2006

“Greeks Bearing Consensus: An Outline for Increasing Greece’s Soft Power in the West,” *Mediterranean Quarterly*, Summer 2005

“W Version 2.0: Foreign Policy in the Second Bush Term,” *The Fletcher Forum of World Affairs*, Summer 2005

“Can You Sue the White House? Opening the Door for Separation of Powers Immunity in *Cheney v. District Court*,” *Presidential Studies Quarterly*, December 2004

“Political Realism: A Culprit for the 9/11 Attacks,” *Harvard International Review*, Fall 2004

Greeks Bearing Consensus: An Outline for Increasing Greece’s Soft Power in the West, Hellenic Observatory Discussion Paper 18, London School of Economics, November 2004

Were the Eagle and the Phoenix Birds of a Feather? The United States and the 1967 Greek Coup, Hellenic Observatory Discussion Paper 15, London School of Economics, February 2004

“Not a Divorce,” *Survival*, Winter 2003-2004 (correspondence)

“Media Impact,” in Mark Rozell, ed., *The Media and American Politics: An Introduction* (Lanham, MD: Rowman & Littlefield, 2003)

“The Surrender of Alleged War Criminals to International Tribunals: Examining the Constitutionality of Extradition via Congressional-Executive Agreement,” *UCLA Journal of International Law and Foreign Affairs*, Fall/Winter 2003

“The Constitutionality of Congressional-Executive Agreements: Insights from Two Recent Cases,” *Presidential Studies Quarterly*, June 2003

“The ‘Essential Domino’ of Military Operations: American Public Opinion and the Use of Force,” *International Studies Perspectives*, November 2002

“The Polls–Trends: The United States Peace Operation in Somalia,” *Public Opinion Quarterly*, Winter 2001

American Public Opinion on Peace Operations: The Cases of Somalia, Rwanda, and Haiti, University of Michigan Dissertation Services, 1999

“Turkey’s Right v. Might Dilemma in Cyprus: Reviewing the Implications of *Loizidou v. Turkey*,” *Mediterranean Quarterly*, Spring 1999

“An Outline of a Plan Toward a Comprehensive Settlement of the Greek-Turkish Dispute,” in Vangelis Calotychos, ed., *Cyprus and Its People: Nation, Identity, and Experience in an Unimaginable Community, 1955-1997*, Boulder, CO: Westview Press, 1998 (co-authored with Theodore A. Couloumbis)

“Prospects for Greek-Turkish Reconciliation in a Changing International Setting,” in Tozun Bahcheli, Theodore A. Couloumbis, and Patricia Carley, eds., *Greek-Turkish Relations and U.S. Foreign Policy: Cyprus, the Aegean, and Regional Stability*, Washington, D.C.: U.S. Institute of Peace, 1997 (co-authored with Theodore A. Couloumbis) [Reproduced as “Prospects for Greek-Turkish Reconciliation in a Changing International Setting,” in Robert L. Pfaltzgraff and Dimitris Keridis, eds., *Security in Southeastern Europe and the U.S.-Greek Relationship*, London: Brassey’s, 1997 (co-authored with Theodore A. Couloumbis)]

“Structuration Theory in International Relations,” *Swords & Ploughshares*, Spring 1992

Commentaries and Correspondence

“Why Our Response to School Shootings Is All Wrong,” *Los Angeles Times*, May 25, 2022 (co-authored with Sonali Rajan and Charles Branas)

“COVID-19 Is a Threat to National Security. Let’s Start Treating It as Such,” *Just Security*, August 6, 2020 (co-authored with Colin P. Clarke)

“If the Assault Weapons Ban ‘Didn’t Work,’ Then Why Does the Evidence Suggest It Saved Lives?” *Los Angeles Times*, March 11, 2018 (correspondence)

“London and the Mainstreaming of Vehicular Terrorism,” *The Atlantic*, June 4, 2017 (co-authored with Colin P. Clarke)

“Firearms Have Killed 82 of the 86 Victims of Post-9/11 Domestic Terrorism,” *The Trace*, June 30, 2015 [Reproduced as “Almost Every Fatal Terrorist Attack in America since 9/11 Has Involved Guns.” *Vice*, December 4, 2015]

“International Law and the 2012 Presidential Elections,” Vitoria Institute, March 24, 2012

“Al Qaeda Without Bin Laden,” CBS News *Opinion*, May 2, 2011

“Fuel, But Not the Spark,” *Zocalo Public Square*, February 16, 2011

“After Tucson, Emotions Run High,” *New York Times*, January 12, 2011 (correspondence)

“WikiLeaks, the Web, and the Need to Rethink the Espionage Act,” *The Atlantic*, November 9, 2010

“Deprogramming Jihadis,” *New York Times Magazine*, November 23, 2008 (correspondence)

“Food: An Issue of National Security,” *Forbes* (Forbes.com), October 25, 2008

“An Invaluable Opportunity for Greece To Increase Its Standing and Influence on the World Stage,” *Kathimerini* (Greece), January 13, 2005

“How Many War Deaths Can We Take?” *Newsday*, November 7, 2003

“Down But Not Out,” London School of Economics Iraq War Website, April 2003

“Four Half-Truths and a War,” *American Reporter*, April 6, 2003

“The Greek Bridge between Old and New Europe,” *National Herald*, February 15-16, 2003

“Debunking a Widely-Believed Greek Conspiracy Theory,” *National Herald*, September 21-22, 2002

“Debunking of Elaborate Media Conspiracies an Important Trend,” *Kathimerini* (Greece), September 21, 2002 [Not Related to September 21-22, 2002, *National Herald* Piece with Similar Title]

“Cold Turkey,” *Washington Times*, March 16, 1998

“If This Alliance Is to Survive . . .,” *Washington Post*, January 2, 1998 [Reproduced as “Make Greece and Turkey Behave,” *International Herald Tribune*, January 3, 1998]

“Defuse Standoff on Cyprus,” *Defense News*, January 27-February 2, 1997

“Ukraine Holds Nuclear Edge,” *Defense News*, August 2-8, 1993

Commentaries Written for *New York Daily News* –
<https://www.nydailynews.com/authors/?author=Louis+Klarevas>

“Careful How You Talk about Suicide, Mr. President,” March 25, 2020 (co-authored with Sonali Rajan, Charles Branas, and Katherine Keyes)

“Only as Strong as Our Weakest Gun Laws: The Latest Mass Shooting Makes a Powerful Case for Federal Action,” November 8, 2018

“What to Worry, and not Worry, About: The Thwarted Pipe-Bomb Attacks Point to Homeland Security Successes and Vulnerabilities,” October 25, 2018

“After the Santa Fe Massacre, Bury the ‘Good Guy with a Gun’ Myth: Armed Staffers Won’t Deter Shooters or Keep Kids Safe,” May 22, 2018

“It’s the Guns (and Ammo), Stupid: Dissuading Killers and Hardening Targets Matter Too, But Access to Weapons Matters Most,” February 18, 2018

“The Texas Shooting Again Reveals Inadequate Mental-Health Help in the U.S. Military,” November 7, 2017

“Why Mass Shootings Are Getting Worse: After Vegas, We Urgently Must Fix Our Laws,” October 2, 2017

“N.Y. Can Lead the Nation in Fighting Child Sex Trafficking,” April 21, 2009 (co-authored with Ana Burdsall-Morse)

“Crack Down on Handguns – They’re a Tool of Terror, Too,” October 25, 2007

Commentaries Written for *The Huffington Post* – www.huffingtonpost.com/louis-klarevas

“Improving the Justice System Following the Deaths of Michael Brown and Eric Garner,” December 4, 2014

“American Greengemony: How the U.S. Can Help Ukraine and the E.U. Break Free from Russia’s Energy Stranglehold,” March 6, 2014

“Guns Don’t Kill People, Dogs Kill People,” October 17, 2013

“Romney the Liberal Internationalist?” October 23, 2012

“Romney’s Unrealistic Foreign Policy Vision: National Security Funded by Money Growing Trees,” October 10, 2012

“Do the Wrong Thing: Why Penn State Failed as an Institution,” November 14, 2011

“Holding Egypt’s Military to Its Pledge of Democratic Reform,” February 11, 2011

“The Coming Twivolutions? Social Media in the Recent Uprisings in Tunisia and Egypt,” January 31, 2011

“Scholarship Slavery: Does St. John’s ‘Dean of Mean’ Represent a New Face of Human Trafficking?” October 6, 2010

“Misunderstanding Terrorism, Misrepresenting Islam,” September 21, 2010

“Bombing on the Analysis of the Times Square Bomb Plot,” May 5, 2010

“Do the Hutaree Militia Members Pose a Terrorist Threat?” May 4, 2010

“Addressing Mexico’s Gun Violence One Extradition at a Time,” March 29, 2010

“Terrorism in Texas: Why the Austin Plane Crash Is an Act of Terror,” February 19, 2010

“Securing American Primacy by Tackling Climate Change: Toward a National Strategy of Greengemony,” December 15, 2009

“Traffickers Without Borders: A ‘Journey’ into the Life of a Child Victimized by Sex Trafficking,” November 17, 2009

“Beyond a Lingering Doubt: It’s Time for a New Standard on Capital Punishment,” November 9, 2009

“It’s the Guns Stupid: Why Handguns Remain One of the Biggest Threats to Homeland Security,” November 7, 2009

“Obama Wins the 2009 Nobel Promise Prize,” October 9, 2009

Commentaries for *Foreign Policy* – www.foreignpolicy.com

“The White House’s Benghazi Problem,” September 20, 2012

“Greeks Don’t Want a Grexit,” June 14, 2012

“The Earthquake in Greece,” May 7, 2012

“The Idiot Jihadist Next Door,” December 1, 2011

“Locked Up Abroad,” October 4, 2011

Commentaries for *The New Republic* – www.tnr.com/users/louis-klarevas

“What the U.N. Can Do To Stop Getting Attacked by Terrorists,” September 2, 2011

“Is It Completely Nuts That the British Police Don’t Carry Guns? Maybe Not,” August 13, 2011

“How Obama Could Have Stayed the Execution of Humberto Leal Garcia,” July 13, 2011

“After Osama bin Laden: Will His Death Hasten Al Qaeda’s Demise?” May 2, 2011

“Libya’s Stranger Soldiers: How To Go After Qaddafi’s Mercenaries,” February 28, 2011

“Closing the Gap: How To Reform U.S. Gun Laws To Prevent Another Tucson,” January 13, 2011

“Easy Target,” June 13, 2010

“Death Be Not Proud,” October 27, 2003 (correspondence)

Legal Analyses Written for *Writ* – writ.news.findlaw.com/contributors.html#klarevas

“Human Trafficking and the Child Protection Compact Act of 2009,” *Writ* (FindLaw.com), July 15, 2009 (co-authored with Christine Buckley)

“Can the Justice Department Prosecute Reporters Who Publish Leaked Classified Information? Interpreting the Espionage Act,” *Writ* (FindLaw.com), June 9, 2006

“Will the Precedent Set by the Indictment in a Pentagon Leak Case Spell Trouble for Those Who Leaked Valerie Plame's Identity to the Press?” *Writ* (FindLaw.com), August 15, 2005

“Jailing Judith Miller: Why the Media Shouldn't Be So Quick to Defend Her, and Why a Number of These Defenses Are Troubling,” *Writ* (FindLaw.com), July 8, 2005

“The Supreme Court Dismisses the Controversial Consular Rights Case: A Blessing in Disguise for International Law Advocates?” *Writ* (FindLaw.com), June 6, 2005 (co-authored with Howard S. Schiffman)

“The Decision Dismissing the Lawsuit against Vice President Dick Cheney,” *Writ* (FindLaw.com), May 17, 2005

“The Supreme Court Considers the Rights of Foreign Citizens Arrested in the United States,” *Writ* (FindLaw.com), March 21, 2005 (co-authored with Howard S. Schiffman)

Presentations and Addresses

In addition to the presentations listed below, I have made close to one hundred media appearances, book events, and educational presentations (beyond lectures for my own classes)

“Mass Shootings: What We Know, What We Don't Know, and Why It All Matters,” keynote presentation to be delivered at the Columbia University Center for Injury Science and Prevention Annual Symposium, virtual meeting, May 2020

“K-12 School Environmental Responses to Gun Violence: Gaps in the Evidence,” paper presented at Society for Advancement of Violence and Injury Research Annual Meeting, virtual meeting, April 2020 (co-authored with Sonali Rajan, Joseph Erardi, Justin Heinze, and Charles Branas)

“Active School Shootings,” Post-Performance Talkback following Presentation of *17 Minutes*, Barrow Theater, New York, January 29, 2020 (co-delivered with Sonali Rajan)

“Addressing Mass Shootings in Public Health: Lessons from Security Studies,” Teachers College, Columbia University, November 25, 2019

“Rampage Nation: Securing America from Mass Shootings,” Swarthmore College, October 24, 2019

“Rampage Nation: Securing America from Mass Shootings,” University of Pennsylvania, February 9, 2018

“Treating Mass Shootings for What They Really Are: Threats to American Security,” Framingham State University, October 26, 2017

“Book Talk: Rampage Nation,” Teachers College, Columbia University, October 17, 2017

Participant, Roundtable on Assault Weapons and Large-Capacity Magazines, Annual Conference on Second Amendment Litigation and Jurisprudence, Law Center to Prevent Gun Violence, October 16, 2017

“Protecting the Homeland: Tracking Patterns and Trends in Domestic Terrorism,” address delivered to the annual meeting of the National Joint Terrorism Task Force, June 2015

“Sovereign Accountability: Creating a Better World by Going after Bad Political Leaders,” address delivered to the Daniel H. Inouye Asia-Pacific Center for Security Studies, November 2013

“Game Theory and Political Theater,” address delivered at the School of Drama, State Theater of Northern Greece, May 2012

“Holding Heads of State Accountable for Gross Human Rights Abuses and Acts of Aggression,” presentation delivered at the Michael and Kitty Dukakis Center for Public and Humanitarian Service, American College of Thessaloniki, May 2012

Chairperson, Cultural Enrichment Seminar, Fulbright Foundation – Southern Europe, April 2012

Participant, Roundtable on “Did the Intertubes Topple Hosni?” Zócalo Public Square, February 2011

Chairperson, Panel on Democracy and Terrorism, annual meeting of the International Security Studies Section of the International Studies Association, October 2010

“Trends in Terrorism Within the American Homeland Since 9/11,” paper to be presented at the annual meeting of the International Security Studies Section of the International Studies Association, October 2010

Panelist, “In and Of the World,” Panel on Global Affairs in the 21st Century, Center for Global Affairs, New York University, March 2010

Moderator, “Primacy, Perils, and Players: What Does the Future Hold for American Security?” Panel of Faculty Symposium on Global Challenges Facing the Obama Administration, Center for Global Affairs, New York University, March 2009

“Europe’s Broken Border: The Problem of Illegal Immigration, Smuggling and Trafficking via Greece and the Implications for Western Security,” presentation delivered at the Center for Global Affairs, New York University, February 2009

“The Dangers of Democratization: Implications for Southeast Europe,” address delivered at the University of Athens, Athens, Greece, May 2008

Participant, “U.S. National Intelligence: The Iran National Intelligence Estimate,” Council on Foreign Relations, New York, April 2008

Moderator, First Friday Lunch Series, “Intelligence in the Post-9/11 World: An Off-the-Record Conversation with Dr. Joseph Helman (U.S. Senior National Intelligence Service),” Center for Global Affairs, New York University, March 2008

Participant, “U.S. National Intelligence: Progress and Challenges,” Council on Foreign Relations, New York, March 2008

Moderator, First Friday Lunch Series, “Public Diplomacy: The Steel Backbone of America’s Soft Power: An Off-the-Record Conversation with Dr. Judith Baroody (U.S. Department of State),” Center for Global Affairs, New York University, October 2007

“The Problems and Challenges of Democratization: Implications for Latin America,” presentation delivered at the Argentinean Center for the Study of Strategic and International Relations Third Conference on the International Relations of South America (IBERAM III), Buenos Aires, Argentina, September 2007

“The Importance of Higher Education to the Hellenic-American Community,” keynote address to the annual Pan-Icarian Youth Convention, New York, May 2007

Moderator, First Friday Lunch Series, Panel Spotighting Graduate Theses and Capstone Projects, Center for Global Affairs, New York University, April 2007

Convener, U.S. Department of State Foreign Officials Delegation Working Group on the Kurds and Turkey, March 2007

“Soft Power and International Law in a Globalizing Latin America,” round-table presentation delivered at the Argentinean Center for the Study of Strategic and International Relations Twelfth Conference of Students and Graduates of International Relations in the Southern Cone (CONOSUR XII), Buenos Aires, Argentina, November 2006

Moderator, First Friday Lunch Series, “From Berkeley to Baghdad to the Beltway: An Off-the-Record Conversation with Dr. Catherine Dale (U.S. Department of Defense),” Center for Global Affairs, New York University, November 2006

Chairperson, Roundtable on Presidential Privilege and Power Reconsidered in a Post-9/11 Era, American Political Science Association Annual Meeting, September 2006

“Constitutional Controversies,” round-table presentation delivered at City University of New York-College of Staten Island, September 2005

“The Future of the Cyprus Conflict,” address to be delivered at City University of New York College of Staten Island, April 2005

“The 2004 Election and the Future of American Foreign Policy,” address delivered at City University of New York College of Staten Island, December 2004

“One Culprit for the 9/11 Attacks: Political Realism,” address delivered at City University of New York-College of Staten Island, September 2004

“Were the Eagle and the Phoenix Birds of a Feather? The United States and the 1967 Greek Coup,” address delivered at London School of Economics, November 2003

“Beware of Europeans Bearing Gifts? Cypriot Accession to the EU and the Prospects for Peace,” address delivered at Conference on Mediterranean Stability, Security, and Cooperation, Austrian Defense Ministry, Vienna, Austria, October 2003

Co-Chair, Panel on Ideational and Strategic Aspects of Greek International Relations, London School of Economics Symposium on Modern Greece, London, June 2003

“Greece between Old and New Europe,” address delivered at London School of Economics, June 2003

Co-Chair, Panel on International Regimes and Genocide, International Association of Genocide Scholars Annual Meeting, Galway, Ireland, June 2003

“American Cooperation with International Tribunals,” paper presented at the International Association of Genocide Scholars Annual Meeting, Galway, Ireland, June 2003

“Is the Unipolar Moment Fading?” address delivered at London School of Economics, May 2003

“Cyprus, Turkey, and the European Union,” address delivered at London School of Economics, February 2003

“Bridging the Greek-Turkish Divide,” address delivered at Northwestern University, May 1998

“The CNN Effect: Fact or Fiction?” address delivered at Catholic University, April 1998

“The Current Political Situation in Cyprus,” address delivered at AMIDEAST, July 1997

“Making the Peace Happen in Cyprus,” presentation delivered at the U.S. Institute of Peace in July 1997

“The CNN Effect: The Impact of the Media during Diplomatic Crises and Complex Emergencies,” a series of presentations delivered in Cyprus (including at Ledra Palace), May 1997

“Are Policy-Makers Misreading the Public? American Public Opinion on the United Nations,” paper presented at the International Studies Association Annual Meeting, Toronto, Canada, March 1997 (with Shoon Murray)

“The Political and Diplomatic Consequences of Greece’s Recent National Elections,” presentation delivered at the National Foreign Affairs Training Center, Arlington, VA, September 1996

“Prospects for Greek-Turkish Reconciliation,” presentation delivered at the U.S. Institute of Peace Conference on Greek-Turkish Relations, Washington, D.C., June, 1996 (with Theodore A. Coulombis)

“Greek-Turkish Reconciliation,” paper presented at the Karamanlis Foundation and Fletcher School of Diplomacy Joint Conference on The Greek-U.S. Relationship and the Future of Southeastern Europe, Washington, D.C., May, 1996 (with Theodore A. Coulombis)

“The Path toward Peace in the Eastern Mediterranean and the Balkans in the Post-Cold War Era,” paper presented at the International Studies Association Annual Meeting, San Diego, CA, March, 1996 (with Theodore A. Coulombis)

“Peace Operations: The View from the Public,” paper presented at the International Studies Association Annual Meeting, San Diego, CA, March, 1996

Chairperson, Roundtable on Peace Operations, International Security Section of the International Studies Association Annual Meeting, Rosslyn, VA, October, 1995

“Chaos and Complexity in International Politics: Epistemological Implications,” paper presented at the International Studies Association Annual Meeting, Washington, D.C., March, 1994

“At What Cost? American Mass Public Opinion and the Use of Force Abroad,” paper presented at the International Studies Association Annual Meeting, Washington, D.C., March, 1994 (with Daniel B. O’Connor)

“American Mass Public Opinion and the Use of Force Abroad,” presentation delivered at the United States Institute of Peace, Washington, D.C., February, 1994 (with Daniel B. O’Connor)

“For a Good Cause: American Mass Public Opinion and the Use of Force Abroad,” paper presented at the Annual Meeting of the Foreign Policy Analysis/Midwest Section of the International Studies Association, Chicago, IL, October, 1993 (with Daniel B. O’Connor)

“American International Narcotics Control Policy: A Critical Evaluation,” presentation delivered at the American University Drug Policy Forum, Washington, D.C., November, 1991

“American National Security in the Post-Cold War Era: Social Defense, the War on Drugs, and the Department of Justice,” paper presented at the Association of Professional Schools of International Affairs Conference, Denver, CO, February, 1991

Referee for Grant Organizations, Peer-Reviewed Journals, and Book Publishers

National Science Foundation, Division of Social and Economic Sciences

American Journal of Preventive Medicine

American Journal of Public Health

American Political Science Review

British Medical Journal (BMJ)

Comparative Political Studies

Injury Epidemiology

Journal of Public and International Affairs

Millennium

Political Behavior

Presidential Studies Quarterly

Victims & Offenders

Violence and Victims

Brill Publishers

Johns Hopkins University Press

Routledge

Service to University, Profession, and Community

Participant, Minnesota Chiefs of Police Association, Survey of Measures to Reduce Gun Violence, 2023

Member, Regional Gun Violence Research Consortium, Nelson A. Rockefeller Institute of Government, State University of New York, 2022-

Founding Member, Scientific Union for the Reduction of Gun Violence (SURGE), Columbia University, 2019-

Contributing Lecturer, Johns Hopkins University, Massive Open Online Course on Evidence-Based Gun Violence Research, Funded by David and Lucile Packard Foundation, 2019

Member, Group of Gun Violence Experts, *New York Times* Upshot Survey, 2017

Member, Guns on Campus Assessment Group, Johns Hopkins University and Association of American Universities, 2016

Member, Fulbright Selection Committee, Fulbright Foundation, Athens, Greece, 2012

Faculty Advisor, Global Affairs Graduate Society, New York University, 2009-2011

Founder and Coordinator, Graduate Transnational Security Studies, Center for Global Affairs, New York University, 2009-2011

Organizer, Annual Faculty Symposium, Center for Global Affairs, New York University, 2009

Member, Faculty Search Committees, Center for Global Affairs, New York University, 2007-2009

Member, Graduate Program Director Search Committee, Center for Global Affairs, New York University, 2008-2009

Developer, Transnational Security Studies, Center for Global Affairs, New York University, 2007-2009

Participant, Council on Foreign Relations Special Series on National Intelligence, New York, 2008

Member, Graduate Certificate Curriculum Committee, Center for Global Affairs, New York University, 2008

Member, Faculty Affairs Committee, New York University, 2006-2008

Member, Curriculum Review Committee, Center for Global Affairs, New York University, 2006-2008

Member, Overseas Study Committee, Center for Global Affairs, New York University, 2006-2007

Participant, New York Academic Delegation to Israel, Sponsored by American-Israel Friendship League, 2006

Member, Science, Letters, and Society Curriculum Committee, City University of New York-College of Staten Island, 2006

Member, Graduate Studies Committee, City University of New York-College of Staten Island, 2005-2006

Member, Summer Research Grant Selection Committee, City University of New York-College of Staten Island, 2005

Director, College of Staten Island Association, 2004-2005

Member of Investment Committee, College of Staten Island Association, 2004-2005

Member of Insurance Committee, College of Staten Island Association, 2004-2005

Member, International Studies Advisory Committee, City University of New York-College of Staten Island, 2004-2006

Faculty Advisor, Pi Sigma Alpha National Political Science Honor Society, City University of New York-College of Staten Island, 2004-2006

Participant, World on Wednesday Seminar Series, City University of New York-College of Staten Island, 2004-2005

Participant, American Democracy Project, City University of New York-College of Staten Island, 2004

Participant, Philosophy Forum, City University of New York-College of Staten Island, 2004

Commencement Liaison, City University of New York-College of Staten Island, 2004

Member of Scholarship Committee, Foundation of Pan-Icarian Brotherhood, 2003-2005, 2009

Scholarship Chairman, Foundation of Pan-Icarian Brotherhood, 2001-2003

Faculty Advisor to the Kosmos Hellenic Society, George Washington University, 2001-2002

Member of University of Pennsylvania's Alumni Application Screening Committee, 2000-2002

Participant in U.S. Department of State's International Speakers Program, 1997

Participant in Yale University's United Nations Project, 1996-1997

Member of Editorial Advisory Board, *Journal of Public and International Affairs*, Woodrow Wilson School of Public and International Affairs, Princeton University, 1991-1993

Voting Graduate Student Member, School of International Service Rank and Tenure Committee, American University, 1990-1992

Member of School of International Service Graduate Student Council, American University, 1990-1992

Teaching Assistant for the Several Courses (World Politics, Beyond Sovereignty, Between Peace and War, Soviet-American Security Relations, and Organizational Theory) at School of International Service Graduate Student Council, American University, 1989-1992

Representative for American University at the Annual Meeting of the Association of Professional Schools of International Affairs, Denver, Colorado, 1991

Expert Witness Service

Expert for State of Hawaii, *National Association for Gun Rights, et al. v. Shikada*, United States District Court for the District of Hawaii, Case Number 22-cv-00404-DKW-RT, Honolulu, HI, 2023-

Expert for State of Hawaii, *Abbott v. Lopez*, United States District Court for the District of Hawaii, Case Number 20-cv-00360-RT, Honolulu, HI, 2023-

Expert for State of Illinois, *Harrel v. Raoul*, United States District Court for Southern District of Illinois, Case Number 23-cv-141-SPM, East St. Louis, IL, 2023-

Expert for State of Illinois, *Langley v. Kelly*, United States District Court for Southern District of Illinois, Case Number 23-cv-192-NJR, East St. Louis, IL, 2023-

Expert for State of Illinois, *Barnett v. Raoul*, United States District Court for Southern District of Illinois, Case Number 23-cv-209-RJD, Benton, IL, 2023-

Expert for State of Illinois, *Federal Firearms Licensees of Illinois v. Pritzker*, United States District Court for Southern District of Illinois, Case Number 23-cv-215-NJR, East St. Louis, IL, 2023-

Expert for State of Illinois, *Herrera v. Raoul*, United States District Court for Northern District of Illinois, Case Number 23-cv-532, Chicago, IL, 2023-

Expert for State of Oregon, *Oregon Firearms Federation, Inc., et al. v. Kotek, et al.*, United States District Court for the District of Oregon, Case Number 22-cv-01815-IM, Portland, OR, 2023-

Expert for State of Oregon, *Fitz, et al. v. Rosenblum, et al.*, United States District Court for the District of Oregon, Case Number 22-cv-01859-IM, Portland, OR, 2023-

Expert for State of Oregon, *Eyre, et al. v. Rosenblum, et al.*, United States District Court for the District of Oregon, Case Number 22-cv-01862-IM, Portland, OR, 2023-

Expert for State of Oregon, *Azzopardi, et al. v. Rosenblum, et al.*, United States District Court for the District of Oregon, Case Number 22-cv-01869-IM, Portland, OR, 2023-

Expert for State of Connecticut, *National Association for Gun Rights, et al. v. Lamont, et al.*, United States District Court for the District of Connecticut, Case Number 22-cv-01118-JBA, Hartford, CT, 2023-

Expert for State of Massachusetts, *National Association for Gun Rights and Capen v. Campbell*, United States District Court for the District of Massachusetts, Case Number 22-cv-11431-FDS, Boston, MA, 2023-

Expert for City of Highland Park, Illinois, *National Association for Gun Rights and Goldman v. Highland Park*, United States District Court for Northern District of Illinois, Case Number 22-cv-04774, Chicago, IL, 2022-

Expert for State of Colorado, *Gates, et al. v. Polis*, United States District Court for District of Colorado, 22-cv-01866-NYW-SKC, Denver, CO, 2022-

Expert for State of Washington, *Brumback and Gimme Guns v. Ferguson, et al.*, United States District Court for Eastern District of Washington, Case Number 22-cv-03093-MKD, Yakima, WA, 2022-

Expert for State of Washington, *Sullivan, et al. v. Ferguson, et al.*, United States District Court for Western District of Washington, Case Number, 22-cv-05403-DGE, Seattle, WA, 2022-

Expert for State of California, *Rupp v. Bonta*, United States District Court for Eastern District of California, Case Number 17-cv-00903-WBS-KJN, Sacramento, CA, 2022-

Expert for County of Cook, Illinois, *Viramontes v. County of Cook, IL*, United States District Court for Northern District of Illinois, Case Number 21-cv-04595, Chicago, IL, 2022-

Expert for Government of Canada, *Parker and K.K.S. Tactical Supplies Ltd. v. Attorney General of Canada*, Federal Court, Court File No.: T-569-20, 2021-

Expert for Government of Canada, *Canadian Coalition for Firearm Rights, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-577-20, 2021-

Expert for Government of Canada, *Hipwell v. Attorney General of Canada*, Federal Court, Court File No.: T-581-20, 2021-

Expert for Government of Canada, *Doherty, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-677-20, 2021-

Expert for Government of Canada, *Generoux, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-735-20, 2021-

Expert for Government of Canada, *Eichenberg, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-905-20, 2021-

Expert for State of California, *Nguyen v. Bonta*, United States District Court for Southern District of California, Case Number 20-cv-02470-WQH-MDD, San Diego, CA, 2021-

Expert for State of California, *Jones v. Bonta*, United States District Court for Southern District of California, Case Number 19-cv-01226-L-AHG, San Diego, CA, 2021-

Expert for State of California, *Miller v. Becerra*, United States District Court for Southern District of California, Case Number 19-cv-1537-BEN-JLB, San Diego, CA, 2019-

Expert for Plaintiffs, *Ward et al. v. Academy Sports + Outdoor*, District Court Bexar County, Texas, 224th Judicial District, Cause Number 2017CI23341, Bexar County, TX, 2019-2019

Expert for State of California, *Duncan v. Becerra*, United States District Court for Southern District of California, Case Number 17-cv-1017-BEN-JLB, San Diego, CA, 2017-

Expert for State of California, *Wiese v. Becerra*, United States District Court for Eastern District of California, Case Number 17-cv-00903-WBS-KJN, Sacramento, CA, 2017-

Expert for State of Colorado, *Rocky Mountain Gun Owners v. Hickenlooper*, District Court for County and City of Denver, Colorado, Case Number 2013CV33879, Denver, CO, 2016-2017

Affiliations, Associations, and Organizations (Past and Present)

Academy of Political Science (APS)

American Political Science Association (APSA)

Anderson Society of American University

Carnegie Council Global Ethics Network

Columbia University Scientific Union for the Reduction of Gun Violence (SURGE)

Firearm Safety among Children and Teens (FACTS)

International Political Science Association (IPSA)

International Studies Association (ISA)

New York Screenwriters Collective

Pan-Icarian Brotherhood

Pi Sigma Alpha

Regional Gun Violence Research Consortium

Society for Advancement of Violence and Injury Research (SAVIR)

United States Department of State Alumni Network

United States Institute of Peace Alumni Association

University of Pennsylvania Alumni Association

Grants, Honors, and Awards

Co-Investigator, A Nationwide Case-Control Study of Firearm Violence Prevention Tactics and Policies in K-12 School, National Institutes of Health, 2021-2024 (Branas and Rajan MPIs)

Senior Fulbright Fellowship, 2012

Professional Staff Congress Research Grantee, City University of New York, 2004-2005

Research Assistance Award (Two Times), City University of New York-College of Staten Island, 2004

Summer Research Fellowship, City University of New York-College of Staten Island, 2004

European Institute Associate Fellowship, London School of Economics, 2003-2004

Hellenic Observatory Defense Analysis Research Fellowship, London School of Economics, 2002-2003

United States Institute of Peace Certificate of Meritorious Service, 1996

National Science Foundation Dissertation Research Grant, 1995 (declined)

Alexander George Award for Best Graduate Student Paper, Runner-Up, Foreign Policy Analysis Section, International Studies Association, 1994

Dean's Scholar Fellowship, School of International Service, American University, 1989-1992

Graduate Research and Teaching Assistantship, School of International Service, American University, 1989-1992

American Hellenic Educational Progressive Association (AHEPA) College Scholarship, 1986

Political Science Student of the Year, Wilkes-Barre Area School District, 1986

LOUIS KLAREVAS
RAMPAGE NATION
SECURING AMERICA FROM MASS SHOOTINGS

 **Prometheus Books**
59 John Glenn Drive
Amherst, New York 14228

EXHIBIT B (Klarevas)

Table 2.1. The Concept of a Mass Shooting.

Definition of a Mass Shooting:

Any violent attack that results in four or more individuals incurring gunshot wounds.

Categories of Mass Shooting:

1. *Nonfatal*
Mass shootings in which no one dies.
2. *Fatal*
Mass shootings in which at least one victim dies.
3. *High-Fatality / Gun Massacre*
Mass shootings in which six or more victims die.



It's easy to dismiss conceptual discussions and debates as exercises in Ivory Tower intellectualism. But how we identify and think about mass shootings impacts which attacks capture national attention and which are disregarded—something which has far-reaching policy consequences. Thus, coming up with the best possible definition and conceptualization is a vital first step toward explaining and preventing rampage violence. As the Socratic adage reminds us, “The beginning of wisdom is the definition of terms.”⁴³

Exhibit C
High-Fatality Mass Shootings in the United States, 1991-2022

	Date	City	State	Deaths	Involved Assault Weapon(s)	Involved Large-Capacity Magazine(s)
1	1/26/1991	Chimayo	NM	7	N	N
2	8/9/1991	Waddell	AZ	9	N	N
3	10/16/1991	Killeen	TX	23	N	Y
4	11/7/1992	Morro Bay and Paso Robles	CA	6	N	N
5	1/8/1993	Palatine	IL	7	N	N
6	5/16/1993	Fresno	CA	7	Y [†]	Y
7	7/1/1993	San Francisco	CA	8	Y [†]	Y
8	12/7/1993	Garden City	NY	6	N	Y
9	4/20/1999	Littleton	CO	13	Y [†]	Y
10	7/12/1999	Atlanta	GA	6	N	U
11	7/29/1999	Atlanta	GA	9	N	Y
12	9/15/1999	Fort Worth	TX	7	N	Y
13	11/2/1999	Honolulu	HI	7	N	Y
14	12/26/2000	Wakefield	MA	7	Y	Y
15	12/28/2000	Philadelphia	PA	7	N	Y
16	8/26/2002	Rutledge	AL	6	N	N
17	1/15/2003	Edinburg	TX	6	Y	U
18	7/8/2003	Meridian	MS	6	N	N
19	8/27/2003	Chicago	IL	6	N	N
20	3/12/2004	Fresno	CA	9	N	N
21	11/21/2004	Birchwood	WI	6	Y	Y
22	3/12/2005	Brookfield	WI	7	N	Y
23	3/21/2005	Red Lake	MN	9	N	Y
24	1/30/2006	Goleta	CA	7	N	Y
25	3/25/2006	Seattle	WA	6	N	N
26	6/1/2006	Indianapolis	IN	7	Y	Y
27	12/16/2006	Kansas City	KS	6	N	N
28	4/16/2007	Blacksburg	VA	32	N	Y
29	10/7/2007	Crandon	WI	6	Y	Y
30	12/5/2007	Omaha	NE	8	Y	Y
31	12/24/2007	Carnation	WA	6	N	U
32	2/7/2008	Kirkwood	MO	6	N	Y
33	9/2/2008	Alger	WA	6	N	U
34	12/24/2008	Covina	CA	8	N	Y
35	1/27/2009	Los Angeles	CA	6	N	N
36	3/10/2009	Kinston, Samson, and Geneva	AL	10	Y	Y

C 1

EXHIBIT C (Klarevas)

	Date	City	State	Deaths	Involved Assault Weapon(s)	Involved Large-Capacity Magazine(s)
37	3/29/2009	Carthage	NC	8	N	N
38	4/3/2009	Binghamton	NY	13	N	Y
39	11/5/2009	Fort Hood	TX	13	N	Y
40	1/19/2010	Appomattox	VA	8	Y	Y
41	8/3/2010	Manchester	CT	8	N	Y
42	1/8/2011	Tucson	AZ	6	N	Y
43	7/7/2011	Grand Rapids	MI	7	N	Y
44	8/7/2011	Copley Township	OH	7	N	N
45	10/12/2011	Seal Beach	CA	8	N	N
46	12/25/2011	Grapevine	TX	6	N	N
47	4/2/2012	Oakland	CA	7	N	N
48	7/20/2012	Aurora	CO	12	Y	Y
49	8/5/2012	Oak Creek	WI	6	N	Y
50	9/27/2012	Minneapolis	MN	6	N	Y
51	12/14/2012	Newtown	CT	27	Y	Y
52	7/26/2013	Hialeah	FL	6	N	Y
53	9/16/2013	Washington	DC	12	N	N
54	7/9/2014	Spring	TX	6	N	Y
55	9/18/2014	Bell	FL	7	N	U
56	2/26/2015	Tyrone	MO	7	N	U
57	5/17/2015	Waco	TX	9	N	Y
58	6/17/2015	Charleston	SC	9	N	Y
59	8/8/2015	Houston	TX	8	N	U
60	10/1/2015	Roseburg	OR	9	N	Y
61	12/2/2015	San Bernardino	CA	14	Y	Y
62	2/21/2016	Kalamazoo	MI	6	N	Y
63	4/22/2016	Piketon	OH	8	N	U
64	6/12/2016	Orlando	FL	49	Y	Y
65	5/27/2017	Brookhaven	MS	8	Y	Y
66	9/10/2017	Plano	TX	8	Y	Y
67	10/1/2017	Las Vegas	NV	60	Y	Y
68	11/5/2017	Sutherland Springs	TX	25	Y	Y
69	2/14/2018	Parkland	FL	17	Y	Y
70	5/18/2018	Santa Fe	TX	10	N	N
71	10/27/2018	Pittsburgh	PA	11	Y	Y
72	11/7/2018	Thousand Oaks	CA	12	N	Y
73	5/31/2019	Virginia Beach	VA	12	N	Y
74	8/3/2019	El Paso	TX	23	Y	Y
75	8/4/2019	Dayton	OH	9	Y†	Y

	Date	City	State	Deaths	Involved Assault Weapon(s)	Involved Large-Capacity Magazine(s)
76	8/31/2019	Midland and Odessa	TX	7	Y	Y
77	3/15/2020	Moncure	NC	6	U	U
78	6/4/2020	Valhermoso Springs	AL	7	Y	Y
79	9/7/2020	Aguanga	CA	7	U	U
80	2/2/2021	Muskogee	OK	6	N	U
81	3/16/2021	Acworth and Atlanta	GA	8	N	Y
82	3/22/2021	Boulder	CO	10	Y [†]	Y
83	4/7/2021	Rock Hill	SC	6	Y [†]	Y
84	4/15/2021	Indianapolis	IN	8	Y	Y
85	5/9/2021	Colorado Springs	CO	6	N	Y
86	5/26/2021	San Jose	CA	9	N	Y
87	1/23/2022	Milwaukee	WI	6	N	U
88	4/3/2022	Sacramento	CA	6	N	Y
89	5/14/2022	Buffalo	NY	10	Y	Y
90	5/24/2022	Uvalde	TX	21	Y	Y
91	7/4/2022	Highland Park	IL	7	Y	Y
92	10/27/2022	Broken Arrow	OK	7	N	U
93	11/22/2022	Chesapeake	VA	6	N	U

Note: High-fatality mass shootings are mass shootings resulting in 6 or more fatalities, not including the perpetrator(s), regardless of location or motive. For purposes of this Exhibit, a high-fatality mass shooting was coded as involving an assault weapon if at least one of the firearms discharged was defined as an assault weapon in (1) the 1994 federal Assault Weapons Ban; (2) the statutes of the state where the shooting occurred; or (3) a legal or judicial declaration issued by a state official. For purposes of this Exhibit, a high-fatality mass shooting was coded as involving a large-capacity magazine if at least one of the firearms discharged had an ammunition-feeding device holding more than 10 bullets. Incidents in gray shade are those incidents that occurred at a time when and in a state where legal prohibitions on both assault weapons and large-capacity magazines were in effect statewide or nationwide. Incidents marked with a † under the “Involved Assault Weapon(s)” column are incidents that involved an assault pistol. All other incidents marked as involving assault weapons involved assault rifles.

Sources: Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (2016); Louis Klarevas, et al., *The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings*, 109 *American Journal of Public Health* 1754 (2019), available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311> (last accessed December 27, 2022); and “Gun Violence Archive,” available at <https://www.gunviolencearchive.org> (last accessed January 3, 2023). The Gun Violence Archive was only consulted for identifying high-fatality mass shootings that occurred since January 1, 2018.

ASSAULT WEAPONS AND ACCESSORIES IN AMERICA

Firearms Policy Project
of the
Violence Policy Center

1834 18th Street, NW
Washington, D.C. 20009
(202) 265-1920



EXHIBIT D (Klarevas)

Assault Weapons and Accessories in America

Josh Sugarmann

Executive Director
Violence Policy Center

September 1988

This study was funded in part by a grant from the
Educational Fund to End Handgun Violence.

Copyright 1988
Violence Policy Center

TABLE OF CONTENTS

Introduction	p. 1
Assault Weapons Violence	p. 2
Drug Traffickers, Paramilitary Groups...	p. 5
And Just Plain Folk	p. 8
Assault Weapons Marketing	p. 9
Assault Weapon Look-Alikes: Airguns and Toy Guns	p. 10
Publications	p. 11
Accessories	p. 14
Paramilitary Training Camps and Combat Schools	p. 19
The Assault Weapons Debate	p. 21
Conclusion	p. 26
Appendix I	p. 30
Appendix II	p. 32
Footnotes	p. 34

INTRODUCTION

Across America, the firepower in the hands of gun owners of varying stripes is increasing dramatically. The reason: assault weapons. Drug traffickers are finding that assault weapons--in addition to 'standard issue' handguns--provide the extra firepower necessary to fight police and competing dealers. Right-wing paramilitary extremists, in their ongoing battle against the "Zionist Occupational Government," have made these easily purchased firearms their gun of choice. And rank and file gun aficionados--jaded with handguns, shotguns, and hunting rifles--are moving up to the television glamour and movie sex appeal of assault weapons. The growing market for these weapons--coupled with a general rising interest in the non-sporting use of firearms--has generated an industry of publications, catalogs, accessories, training camps, and combat schools dedicated to meeting its needs.

Assault weapons are growing in popularity for a variety of reasons. For manufacturers, assault weapons are a necessary new product line in the wake of the mid-1980s decline in handgun sales. Yet, manufacturers didn't create a market, they recognized one. For criminals, the weapons look intimidating, have increased firepower, and can be purchased under the same controls as a hunting rifle or shotgun: that is, virtually none. For survivalists who envision themselves fending off a horde of desperate neighbors from their bomb shelters, the high ammunition capacity and other anti-personnel capabilities of assault weapons are exactly what is needed. And for fans of Rambo and "Miami Vice," assault weapons offer the look and feel of the real thing. Not surprisingly, this shift to increased firepower--in both criminal and law-abiding hands--has law enforcement worried.

The assault weapons threat is exacerbated by the fact that the weapons are difficult to define in legal terms. Legislators and members of the press have proposed placing increased restrictions on all semi-auto firearms, which would include some hunting rifles. Whether these proposals are merely the result of ignorance of the wide variety of firearms that are semi-automatic, or misguided efforts in the face of definitional problems, they only lend credence to the gun lobby's argument that restrictions on assault weapons are merely the first step toward banning all semi-automatic guns.

Assault firearms are semi-automatic (firing one bullet per trigger pull) and fully automatic (the weapon will keep on firing as long as the trigger is depressed) anti-personnel rifles, shotguns, and handguns that are designed primarily for military and law enforcement use. With muzzle velocities that are often greater than standard long guns, and high-capacity ammunition magazines, assault weapons are built to kill large numbers of human beings quickly and efficiently. In tests at their firing range, San Jose, California police found that a fully automatic UZI could fire its 30-round magazine in slightly less than two seconds. A semi-automatic version of the weapon required only five seconds for the magazine to be emptied.¹ Most assault weapons have no legitimate hunting or sporting use. Assault rifles and shotguns often have pistol grips and folding stocks, and are typically lighter and more concealable than standard long guns. Some assault pistols have threaded barrels for the easy attachment of silencers. Many assault weapons are merely semi-automatic versions of military machine guns, making them easier to convert to fully automatic machine guns.

The number of assault weapons in civilian hands--both criminal and law abiding--is estimated to be in the hundreds of thousands, perhaps millions.² No exact figures are available. An unknown number of these weapons have been illegally converted to full-auto. (For an explanation of the different categories and types of firearms, please see Appendix I.)

ASSAULT WEAPONS VIOLENCE

- o October 1984. San Jose, California police officer Joe Tamarett is shot and wounded with an UZI carbine.³
- o January 1988. Virginia resident Michael Anthony Eberhardt is arrested in Washington, D.C., for allegedly purchasing 72 guns in Virginia during an 18-month period and then smuggling them into D.C. for sale to drug dealers. According to The Washington Post, "Many of the weapons were the semi-automatic TEC-9s favored by local drug dealers."⁴
- o April 1986. Two FBI agents are killed with a Ruger Mini-14 in a shootout in Miami, Florida.⁵
- o April 1984. Dennis Cresta, dressed in camouflage fatigues and carrying a Ruger Mini-14 and Colt AR-15, opens fire in Oakland, California, after being questioned by a policeman. No one is hit.⁶
- o July 1987. An elderly woman and her three sons kill three police officers who come to their motel room in Inkster, Michigan, to serve a warrant for a \$286.40 bad check. One of the weapons used to slay the officers is a Heckler & Koch assault rifle.⁷

- o September 1988. Samuel Eloud holds 11 people hostage in a Richmond, Virginia shopping center with a semi-automatic AK-47 and handgun in order to bring "peace to Lebanon."⁸
- o June 1984. Denver, Colorado radio show personality Alan Berg is gunned down with a silenced MAC-10 by right-wing extremists.⁹
- o July 1984. James Huberty goes "hunting for humans" with an UZI, a handgun, and a shotgun in a San Ysidro, California McDonald's. Twenty-one die; 19 are injured.¹⁰
- o December 1985. Portland, Connecticut eighth-grader Floyd Warmsley kills school janitor David Bengston with his father's TEC-9, then holds a classroom of children hostage.¹¹
- o July 1988. Manassas, Virginia, police officer John Conner is gunned down with a Colt AR-15 by a man whose wife had recently left him.¹²
- o April 1987. William B. Cruse opens fire with a Ruger Mini-14 outside a Palm Bay, Florida shopping center, killing six and injuring 10.¹³
- o March 1988. An arsenal that includes a Chinese-made semi-automatic AK-47, a hand grenade, 14 other semi-automatic guns, 32-round ammunition magazines, and a handgun outfitted with a laser sight is seized from five men in New York City's Port Authority bus terminal.¹⁴
- o February 1988. At a press conference decrying the increase in assault weaponry, Prince Georges County (Maryland) Police Chief Michael J. Flaherty states, "The real issue is the safety of our officers." Holding up a TEC-9, he adds, "It's not used for hunting, and it's not used for sporting events. In my opinion, they should not be sold in the United States."¹⁵

These events are not isolated incidents. Although no comprehensive, nationwide statistics are available on the misuse of assault weapons specifically, police organizations, police departments, government agencies, and handgun restriction organizations agree that the sale and misuse of assault weapons has escalated dramatically during the 1980s. (Most law enforcement reporting systems are set up only to separate handguns from long guns. The federal Bureau of Alcohol, Tobacco and Firearms (ATF), the government agency charged with enforcing federal firearms laws, will soon begin breaking out assault weapons from standard long guns.¹⁶)

"There has been an increase in [assault] weapons by all walks of life--gang members, drug dealers, your next door neighbor, even police officers," states Detective Bohannon of the

Los Angeles Police Department Gun Detail. In Los Angeles, assault weapons have turned up increasingly in gang violence and drive-by shootings. Says Bohannon, "These are not sporting weapons. They're designed for one purpose and one purpose only, and that's to kill people." (Bohannon stresses that his opinions are personal and do not reflect the view of the Los Angeles Police Department.) According to Bohannon, essentially the same models of weapons are being seen on the streets by police: "Your least expensive weapons are your MACs and TECs. In the middle you've got your AK-47s and your UZI. At the top level are going to be your AR-15s....[and others]."17

During fiscal year 1987, almost a third of the firearms seized by agents of the Drug Enforcement Agency (DEA)--the leading federal agency charged with enforcing America's federal drug laws--from drug traffickers were semi-automatic and fully automatic. (These figures include non-assault semi-automatic pistols. Figures on solely assault rifles and pistols are not available.) Sixteen percent were fully automatic. On a daily basis, DEA agents seized automatic weapons that included M-16s, AK-47s, MAC-10s, MAC-11s, and UZIs.18

From January 1 to February 10, 1988, of the 388 guns seized by District of Columbia police, the vast majority were either semi-automatic or fully-automatic. Only seven such weapons were seized during the first six months of 1987, six in 1986, one in 1985, and two in 1984.19

In neighboring Prince George's County, Maryland, from July 1987 through February 1988, police seized 140 semi-automatic or automatic weapons, including a TEC-9 and several UZI submachine guns, some equipped with silencers.20

In 1986, ATF seized 2,854 illegal machine guns. These weapons were either converted illegally or illegally possessed. In 1985, the number of illegal weapons seized was 2,042. In 1984, 539.21

The most popular assault weapons are the AK-47, AR-15A2, MAC-10, MAC-11, Ruger Mini-14, TEC-9 and UZI. (For a description and brief history of each weapon, as well as select advertising information, please see Appendix II.) Recognizing the strong market for high-capacity, concealable assault weapons that are painted black and look threatening, America's firearms industry continues to introduce new models. Two of the latest are:

- o The Calico M100P pistol, manufactured by American Industries in Bakersfield, California. With its futuristic lines and black finish, this .22 caliber weapon is the Darth Vader of handguns. Composed of a lightweight alloy frame, it has a "helical feed" 100-round capacity plastic magazine. A 50-round magazine is also available. The weapon also comes in

a carbine (a short-barreled, lightweight rifle) version with a folding stock. Under the headline "Durable, Accurate, Light, Versatile," an ad for the gun shows an intimidating M100P pistol with an optional "Klear-Vue" magazine (a see-through magazine that gives the shooter "complete visibility of rounds remaining in the magazine") and laser sight.²²

The pistol version of the weapon is 17 inches long with the 100-round magazine, and weighs 3.75 pounds. The carbine version, with its stock retracted and the 100-round magazine, is 29.8 inches long. In November 1988, Calico will introduce a 9mm version of the weapon.²³

- o The Street Sweeper is a 12-gauge riot shotgun with a revolving cylinder that rotates with each trigger pull. Able to fire 12 rounds in less than three seconds, the weapon is manufactured by SWD, Inc. (manufacturers of the MAC-11). An ad for the weapon reads, "It's a Jungle Out There! There Is A Disease And We've Got the Cure." It invites the reader to "Make you [sic] streets safe and clean with the help of 'The Street Sweeper'!" With its folding stock retracted, the weapon has an overall length of 25 5/8 inches.²⁴ The SWD weapon is modeled on a shotgun used by South African security personnel, the Striker 12. Efforts had been made to import the Striker, but the weapon was the first long gun ever to fail the sporting-use test that ATF applies to imported long guns. (Domestically produced firearms do not have to meet any sporting use standard.)

DRUG TRAFFICKERS, PARAMILITARY GROUPS...

Because of their ease of purchase, effectiveness, convertibility, and mystique, assault weapons have become increasingly popular among people involved in the drug trade. Or as one DEA spokesman put it, "There's a machismo to carrying the biggest, ugliest, and most powerful weapon available."²⁵

According to DEA Special Agent Maurice Hill, drug dealers in Miami began to switch over from revolvers to higher capacity pistols in the early 1970s. By the end of the decade, they had begun using shoulder-carried weapons, and by the early 1980s had upgraded to weapons like the UZI. Since then, criminals nationwide have expanded into a broad category of assault weapons. Regarding assault weapons, Special Agent Maurice Hill says, "They're all over now."²⁶

Noting that drug traffickers "seem to like the AR-15s, AK-47s, TEC-9s," ATF spokesperson Tom Hill concurs: "We've seen a proliferation because of the drug trade. More and more people

want to have increased firepower and the status of having the semi-automatic assault type weapon. It looks dangerous. Most assault weapons used in criminal acts were initially purchased legally. Some are stolen, some come from over the counter through straw purchases, some are from people who fill out the forms illegally."²⁷

In 1987, ATF traced weapons seized from two members of a Jamaican drug gang (known as "posses") in Tampa, Florida. The trace found that 149 weapons had been purchased over the counter from Tampa-area dealers. The majority of the weapons were TEC-9s, MACs, AR-15s, and Glock 17 handguns, "all preferred weapons of the Jamaican posses."²⁸ (The Glock 17, the first handgun to incorporate plastic into its structural design, is not considered an assault weapon.) As the result of this increased criminal firepower, police departments are beginning to abandon their six-shot revolvers for higher-capacity semi-automatic handguns.

Assault weapons have also become the weapon of choice for a different category of criminal: America's right-wing paramilitary extremists. In his book, Armed and Dangerous: The Rise of the Survivalist Right, author James Coates describes the scene outside the 224-acre compound of the paramilitary extremist organization, The Covenant, Sword and Arm of the Lord (CSA), located in Three Brothers, Arkansas, prior to a raid by law enforcement officials in 1985:²⁹

"[A]ll visitors were greeted by a group of roughly half a dozen obviously frightened and surly young men carrying Mini-14s, MAC-10s and other automatic and semi-automatic weapons. Other armed CSA soldiers were clearly visible in a fifty-foot-tall guard tower overlooking the front gate, from which they pointed machine guns at reporters. Noble [a CSA member], wearing a Bowie knife strapped to one leg and cradling a converted AR-15 automatic rifle in his arm, repeatedly came to the gate to spar verbally with the nervous news media."³⁰

Until recently, police had believed that the CSA--after its members were subjected to increased government prosecution, its compound deserted, and its leader, James Ellison, imprisoned for crimes that included the manufacture of automatic weapons--had disbanded. But in May of 1988, CSA member Londell Williams was charged with conspiring to assassinate presidential candidate Jesse Jackson. Police recovered a converted AR-15 from Williams.³¹

Other paramilitary organizations that favor assault weapons and have been known to convert them to fully automatic machine guns include the Posse Comitatus, Aryan Nations, and The Order.

Although many drug traffickers and members of paramilitary organizations are convicted felons, they are often able to

illegally buy these weapons from retail sales outlets. In every state, assault rifles and shotguns are sold under the same lax restrictions that apply to hunting rifles and shotguns. Assault pistols are sold under the same laws that apply to handguns, which vary from locality to locality.

Some states do require that the purchaser of any firearm first receive an owner's ID card or permit, while other states have a waiting period for all firearms. Yet most states' standards for the sale of long guns are no more severe than the federal law, which requires only that the purchaser be 18 years old and fill out a federal form 4473. On this form, the purchaser swears that he is not a convicted felon, drug addict or alcoholic, and that he does not have a history of mental illness. Most purchases are cash and carry, and long guns can be purchased interstate, with no limit on the number of weapons that can be purchased.³²

The federal standards for handguns are essentially identical to that of long guns, except that they cannot be sold interstate, the purchaser must be 21 years old, and multiple purchases (more than one handgun purchased within five working days) must be reported to ATF.³³

(In 1986, Congress outlawed the future production of machine guns for civilian use. Currently, there is a pool of more than 187,000 machine guns that citizens can legally purchase.³⁴ To obtain a machine gun, a citizen must be fingerprinted, photographed, submit to a background check, wait five to six months, and a \$200 transfer tax must be paid. These same standards must be met to possess silencers, sawed-off rifles and shotguns, and military weaponry, such as hand grenades, land mines, grenade launchers, and other weapons and accessories restricted under the National Firearms Act of 1934.³⁵)

The most restrictive handgun laws are on the state and local level, and assault pistols would be sold under these standards. Handgun laws in America range from Morton Grove, Illinois, which has banned the sale and private possession of handguns, to the state of Florida, which operates essentially under only the federal standards.³⁶

Because many assault weapons--such as the AR-15A2, M100P carbine, Ruger Mini-14, Street Sweeper, and UZI carbine--can be purchased as standard long guns by virtually anyone who is willing to lie on the form, they are a boon to criminals. Assault pistols can be purchased easily by criminals in states with lax handgun laws such as Texas, Virginia, and Florida. From there, these weapons can then be sold to criminals in cities and states with more restrictive laws.

AND JUST PLAIN FOLK

Although much attention has been focused on drug traffickers and paramilitary extremists, many assault weapons are purchased by "just plain folk." These people run the gamut from survivalists who want to be ready "just in case" to gun owners who want the thrill of owning the latest high-tech weapons.

A 1986 Defense Monitor on "Militarism in America," published by the Center for Defense Information (CDI), in Washington, D.C., notes an increasing "fascination for paramilitary weapons and training" among the general public.³⁷

Television shows such as "The A-Team," first broadcast on ABC in 1983, "Miami Vice," first broadcast on NBC in 1984, and other action/adventure/police dramas have acted as a showcase for new weaponry. In effect, these shows supply free advertising for assault weapons manufacturers.

The Center for Media and Public Affairs, based in Washington, D.C., monitored 620 television programs throughout the past 30 years, revealing a noticeable shift toward military-style assault weapons.³⁸

According to Daniel Amundson, research director for The Center, "There certainly is a greater number of automatic weaponry," and this is "partly reflecting news from the front pages and partly reflecting artistic embellishment." Noting that guns have been "ever present" in television, Amundson adds, "The presence hasn't changed, but which ones are present has. 'Miami Vice' requires very sleek and modern weapons. This shows a reflection of the headlines. If drug lords are using more UZIs and MAC-10s, you're going to see it in 'Miami Vice' six to nine months later."

According to Amundson, television has a "tremendous potential to act as a marketplace for anything: weapons, violence, soap, attitudes toward blacks and women. Television has helped the average person to identify weapons more than we'd ever thought, expanded our knowledge, terminology, of the types of guns available. UZI, MAC-10 is no longer jargon for firearms specialists; and that tells us a great deal."³⁹

Meanwhile, in movie theaters, the .44 magnum handgun of Clint Eastwood pales in comparison to the weapons of Rambo and his ilk. Throughout the 1980s, Sylvester Stallone films such as the Rambo series and "Cobra," Chuck Norris movies such as the "Missing in Action" series and "Invasion USA," and Arnold Schwarzenegger movies such as "Terminator," "Predator," and "Commando" have helped popularize paramilitary weapons and accessories.

ASSAULT WEAPONS MARKETING

The marketing of assault weapons throughout this decade is in large part due to the slump in handgun sales that has afflicted the industry since 1982. Handgun production dropped from a high of 2.7 million that year to less than 1.7 million in 1984--a decrease of nearly 40 percent. In 1986, production increased to 1.9 million, a level still well below that of the early 1980s.⁴⁰ (Because handgun manufacturers will not release sales figures, and are not required to do so by law, production figures are the only available gauge of the market.) With an estimated 35 to 40 million handguns in American hands,⁴¹ the slump is apparently the result of saturation of the primary market--white males--and the increasing resale of used handguns.

In their marketing of assault weapons, manufacturers often focus on their police or military functions, their ruggedness and dependability, and the cache of a lone man and his gun against the elements, crime, or the unstated threat of post-nuclear survival.

Colt Industries has even developed an ad aimed directly at survivalists. The 1985 ad features a handsome rancher looking across his land. He has leather patches on the elbows of his flannel shirt and an AR-15A2 in one hand. The headline reads: "Survival means different things to different people. For a rancher in the high country of Wyoming, being self-sufficient can mean keeping varmints from his sheep. For a rugged individual in the wilderness, it means being prepared for any eventuality. For both these men, and thousands like them, there's only one gun. The Colt AR-15A2. The reasons are as simple as they are plentiful. First, it's the rifle they're already familiar with. The AR-15A2 Sporter II is the civilian version of the battle proven and recently improved U.S. military M-16A1..."⁴²

This survivalist sales pitch is echoed in an ad for Heckler & Koch's HK 91 semi-automatic assault rifle. The ad's headline reads, "When you're determined to survive, you leave nothing to chance. In a survival situation, you want the most uncompromising weapons that money can buy. The HK 91 Semi-Automatic Assault Rifle from Heckler & Koch." The ad ends with the tag line, "In a world of compromise, some men don't."⁴³

An ad for the FIE/Franchi LAW-12 shotgun--which comes in standard hunting and assault configurations--urges the reader to "Take the 'LAW' Into Your Own Hands. Whether you patrol the birdlands when the sun is rising...or patrol the boonies when the sun sets...the FIE/Franchi LAW-12 is the LAW of the land! All the LAW you need! Situation - The sun has set, it's now midnight, you're called to a Code 3 situation! Your backup is deployed to another sector. You're all alone, left to handle a tough situation...What do you do? Take the LAW-12 into your hands - A possible 9 rounds of heavy hitting 12 guage [sic] "00"

Buck - All 9 rounds can be emptied on target in less than 3 seconds...operation successful..."⁴⁴

ASSAULT WEAPON LOOK-ALIKES: AIRGUNS AND TOY GUNS

Paramilitary enthusiasm has not been limited to the firearms market. America's manufacturers of non-powder firearms (such as BB guns and pellet guns) and toy guns have been quick to realize that assault weaponry is in. These manufacturers' role models are no longer hunting rifles and Western-style six-shooters, but machine guns and large-caliber handguns. This shift has been accompanied by a keener eye to detail and advances in plastic molding. The result: non-powder firearms and toy guns that are virtually indistinguishable from their more lethal counterparts.

Daisy Manufacturing was one of the first to recognize this potential market. The company introduced its paramilitary line of imported Softair guns in 1986. Softair guns are working replicas, down to the point of expelling spent shells and firing plastic pellets. They retail for approximately \$60. "So accurate in detail you'll swear it's the real thing!...a 'must have' for paramilitary enthusiasts of all ages," reads the catalog description for a replica of the UZI Assault pistol. Copy for a replica of the KG9-SP (predecessor of the TEC-9) boasts that it's "an authentic reproduction of the American-made semiautomatic defense weapon used by anticommunist guerrillas in Angola." A replica of a Heckler & Koch weapon is described as being "without a doubt the most exciting paramilitary airgun on the market today! Styled after the semiautomatic firearm carried by the German police and made famous in the motion picture, 'Rambo: First Blood, Part II,' the Model 15 has the look and feel of the real thing."⁴⁵

Rival manufacturer Crosman has its own UZI look-alike (which fires metal projectiles) and a reproduction of Colt's M-16 machine gun dubbed the A.I.R. 17. Crosman guarantees that "it looks just like the real thing," down to a detachable pellet clip and flash guard on the muzzle of the gun.⁴⁶

Larc International, located in Longwood, Florida, offers-- by mail--the M19-A BB submachine gun. "Imagine--a 3,000 BB per minute cycle rate with an effective range of over 50 yards-- That's some AWESOME Fire Power!!!" With a magazine capacity of 3,000 BBs, the weapon also comes in a pistol version. Each sells for \$39. On the ordering coupon, the purchaser must promise that he or she is 18 years or older.⁴⁷

The Para-Ordnance M-85 is a full-auto paint ball "splat gun" MAC-11 machine pistol replica that fires 1,200 rounds per minute at 440 feet per second. The 24-round magazine can be emptied in 1.2 seconds. It sells for \$299.50.⁴⁸

Far more common than paramilitary non-powder firearms are plastic-molded toy assault weapons. In addition to such staples as M-16s, AK-47s, UZIs, and KG-9s, Daisy, the self-proclaimed leader in the field, offers toy silenced MAC-10 pistols (the Alan Berg murder weapon) and bolt action machine guns.⁴⁹

The International Association of Chiefs of Police (IACP), located in Gaithersburg, Maryland views look-alikes as a unique threat to public safety. As criminal misuse of assault weapons increases, police are more likely to assume that look-alikes are in fact real firearms. People who thoughtlessly display or brandish look-alikes run the risk of finding themselves in a deadly face-off with a police officer who must make a split-second decision on whether to draw a weapon and fire. According to the IACP, incidents involving airguns, highly detailed toy guns, and paint "splat guns" are increasing dramatically.⁵⁰

In May 1988, as an amendment to a bill dealing with the threat posed by non-detectable "plastic" firearms, Congress voted to require that every look-alike sold in America be clearly marked with an orange stripe or other color to distinguish it from its real counterpart. The bill is awaiting presidential signature, which is expected. On the state and local level, laws have been introduced and enacted regarding the sale, production, and brandishing of look-alikes.

But even prior to the bill, various companies, reacting to the growing debate over look-alikes and the increasing negative publicity their sales generated, began to shift their product lines and mark their products to help distinguish them from real firearms. In late 1987, Daisy stopped the sale of its SoftAir guns, which had been imported from Japan. A spokesman for the company noted, however, that the decision was "90 percent financial. The guns just weren't selling."⁵¹

Critics of the marking concept point out that the markings can be easily painted over and will do little good in the dark, while criminals can paint similar markings on real guns.

What makes look-alikes so appealing--that they look just like the increasingly popular assault weapons--is precisely what makes them so dangerous.

PUBLICATIONS

The growing fascination with assault weapons has been accompanied by a growth in the number of publications dedicated to the non-sporting use of firearms.

Firepower, published by Everett Moore out of Cornville, Arizona, is the only magazine in America dedicated to full-auto and high-capacity firearms and has a circulation of 90-95,000.

(Prior to the 1986 machine gun ban, the magazine had been devoted exclusively to full-auto.) Each issue of the magazine is filled with weapon, ammunition, and accessory reviews. Virtually all of the weapons reviewed are assault weapons.

According to Moore, "We jokingly refer to them as black and wicked-looking types of guns. They fill a need in the consumer market for people...who cannot afford the automatic version of the same weapon." Moore acknowledges that violence involving these weapons is "a legitimate concern. It's reality and you can't deny that." He adds, though, that, "it seems like any time we go to disarm the criminal, we end up disarming the legitimate, honest civilian."⁵²

American Survival Guide is "the magazine for safer living." Published by McMullen Publishing in Anaheim, California, articles are listed under headings that include "Survival Weapons," "Survival Gear," and "Survival How To."⁵³ It also contains the "Survivalist Directory," a post-apocalypse personals column that offers a "confidential listing of survivalists who wish to become known to others of like mind." Personal ads in the August issue include:

- o "Melbourne, Florida. Teenage military organization that does U.F.O. research would like to recruit members. Also would like to set-up [sic] information exchange and meet others in this area for training. All races and sexes are welcome. Ages 12 and over only. No racists or religious fanatics need apply."
- o "Northern Arkansas. Young, conservative male seeks correspondence with other survivalists in area. Special interest is nuclear survival. No liberals, atheists, druggies or alcoholics. Females welcome. All ages reply."
- o "Baltimore, Maryland. Urban group which meets biweekly is looking for interested local survivalists wishing to exchange information. We are not Rambos, racists, or extremists, but family-oriented and interested in workable, realistic solutions to short and long term survival scenarios."⁵⁴

Published since 1979, Survival Guide has a circulation of between 30,000 and 70,000.⁵⁵

In addition to his mainstay, the monthly Combat Handguns, New York-based Stanley Harris also publishes such annuals as Guns & Survival and Special Weapons. Another Harris publication, Eagle, which had promised its readers "violent combat action," has ceased publication. An October 1983 issue of the magazine featured an article entitled, "The Amazing Soft Drink Silencer -- I'm a Pepper, You're a Dead Man." The article outlined the ease

with which a two-liter plastic soft-drink container could be used as a silencer for a MAC-10. Eagle found it to be "the best suppressor found in today's supermarkets. It's cheap, effective, and mixes well at parties. What more could you want?"⁵⁶

The Special Weapons annual offers "The Newest Ideas in Guns and Equipment as Well as Combat-Proven Tactics."⁵⁷ Articles in Special Weapons include: "Colt Delta HBAR--Boasting sniper rifle accuracy we compare this new Colt to the combat-proven Galil"; "The Search for Compact Firepower--We compare submachine guns to short assault rifles"; "The Offensive Handgun--It's the tool of the assassin"; "How to Buy Automatic Weapons--Latest prices and availability of Class III firearms"; and the "Assault Rifle Buyer's Guide."⁵⁸

"The Offensive Handgun" is a how-to piece on assassination. The article advises that "single shots are preferred. The head, neck, and spine are the best targets."⁵⁹ Recognizing that sometimes "an unsuppressed pistol may be the only one available," the article advises that, "the sound can be muffled by shooting through...a potato or pillow. If the muzzle is held against the target this also may muffle the sound, but it can also cause him to react in unexpected ways, besides presenting the possibility of the pistol jamming from bits of clothing or flesh caught in the muzzle or chambers."⁶⁰ The article notes that the speed and capacity of a modern machine pistol are "important when shooting a number of people at once."⁶¹

Soldier of Fortune, published out of Boulder, Colorado, describes itself as "The Journal of Professional Adventurers." In a disclaimer on its title page (a trait many of these magazines share), it warns readers that the magazine "does not verify validity of every advertisement and/or the legality of every product contained herein. Soldier of Fortune magazine does not intend for any product or service to be used in any illegal manner."⁶² The magazine has been published since 1975 by National Rifle Association board member Robert K. Brown.

In addition to various "you are there" articles such as "Sandinista Stare-down" and "Bum Trip in Bolivia,"⁶³ the magazine contains weapon reviews and combat tactics. Soldier of Fortune had also carried classified ads for mercenaries for hire. This practice has since been discontinued as the result of a lawsuit filed by the family of a victim whose murderer was hired as the result of an ad placed in the September 1984 issue of the magazine. The ad read: "Ex-marines. 67-69 Nam Vets. Ex-DI, weapons specialist--jungle warfare. Pilot. ME. High risk assignments. US or overseas."

In 1984 Robert Black hired John Wayne Hearn to kill his wife. Hearn did so in February 1985. It had been Hearn's third murder in 19 days. As the result of this, the victim's parents and son sued Soldier of Fortune for \$21 million, arguing that the

magazine was aware of the implication contained in the ad.⁶⁴ In March 1988, a Colorado jury found that the magazine should have known that the ad was offering the services of a hired killer and ordered it to pay \$9.4 million. The decision is currently being appealed.⁶⁵ (Soldier of Fortune refused to answer any questions for this report, including circulation and initial date of publication, on advice of their legal counsel pending outcome of the suit.)

New Breed, "the magazine for military adventure,"⁶⁶ is published by Harry S. Belil, out of Nanuet, New York. Though the magazine focuses more on military action, it does contain articles on assault weaponry and tactics. The August 1988 issue also contains a review of the 1988 SHOT (Shooting, Hunting, Outdoor Trade) show, the annual trade show of the firearms industry, held last January. In the piece, the author notes that "there were plenty of assault rifles at the show."⁶⁷

Shotgun News describes itself as "The Trading Post for anything that shoots." Published three times a month out of Hastings, Nebraska, the 200-page, tabloid-style magazine has a circulation of nearly 190,000.⁶⁸ The magazine is crammed with classified and display ads for firearms and accessories, most of which are geared to firearms dealers.

In addition to a cavalcade of gun ads, Shotgun News carries ads for a variety of accessories (including Nazi memorabilia such as coffee mugs with swastikas⁶⁹), firearms, and publications, including The Turner Diaries, the "bible of right-wing extremists." In the book, "Earl Turner and his fellow patriots...are forced underground when the U.S. government bans the private possession of firearms and stages the mass Gun Raids to round up suspected gun owners. An all-out race war occurs as the struggle escalates. Turner and his comrades suffer terribly, but their ingenuity and boldness in devising and executing new methods of guerrilla warfare lead to a victory of cataclysmic intensity and worldwide scope. If the government had the power to ban books, The Turner Diaries would be at the top of their list. Order your copy today." The \$5.95 book is offered by the neo-Nazi National Vanguard located in Arlington, Virginia.⁷⁰

ACCESSORIES

Not only do these publications supply information, but they also contain advertisements for various catalogs and products. The Survival Systems book catalog describes itself as offering "the most unusual and controversial books you've ever seen in your life."⁷¹ In a disclaimer, the company notes, "Certain of the books in this catalog deal with activities and items which could be in violation of various laws if actually performed or constructed. We do not advocate the breaking of any law. Our books are sold for entertainment purposes only and only to adults!"⁷²

With a toll-free number for credit-card orders, the catalog contains books on revenge, fraud, dirty tricks, firearms conversion, home construction of firearms and explosives, and murder techniques.

Books offered by Survival Systems include:

- o How to Build Silencers: An Illustrated Manual. "A complete manual for the construction of silencers at home with simple tools. Build in less than one hour. \$5.95."⁷³
- o Improvised Weapons of the American Underground. "This book makes other 'cookbooks' things for Sunday School picnics. This collection of original articles covers: Making of Nitroglycerin; Plastic Explosives; Detonators and Primers; Fuses; Impact Ignition Incendiary Devices; and Construction of Various Types of Silencers; and Complete Plans for a Home Made Machine Gun which can be built for less than \$20.00. An absolutely incredible manual. \$7.50."⁷⁴
- o Full Auto. "A completely illustrated modification manual on selective fire conversions for the following weapons: Mini-14; AR-15; HK-91-93; MAC 10-11; and the M1 Carbine. With this new edition, you can convert all five weapons into their full-automatic configurations with ease, as all procedures are thoroughly explained in an easily understood, fully illustrated, step-by-step manner. Without a doubt, this is the finest conversion manual on the market. \$12.00."⁷⁵

Robert K. Brown's Paladin Press offers a 47-page, glossy catalog that includes sections on sniping, revenge and humor, survival, weapons, explosives and demolitions, guerrilla warfare, silencers, new ID and personal freedom, locksmithing, and terrorism. In an essay entitled "New Age Survival," readers are reassured that "We don't want to alarm you into heading for the hills today--but will help you become prepared to do so tomorrow."⁷⁶

Books offered in the catalog include:

- o Anarchist Handbook. "For the modern anarchist, all you need to know to construct an impressive selection of improvised weapons," including "an expedient silencer; a pipe hand grenade; plastic explosive; and a rocket launcher. For each weapon, the author supplies a list of materials easily acquired from drug or hardware stores, hobby shops, supermarkets or even junk piles; step-by-step procedures; simple diagrams and how-to-use instruction for certain weapons. \$7.00."⁷⁷

- o The Mini-14 Exotic Weapons System. "Convert your Mini into a full-auto, silenced, SWAT-type weapon that is capable of field clearing firepower. Note that this conversion process requires no machining or special tools. Once completed it takes just five minutes to drop in the Automatic Connector (the book's secret!) or remove it as needed. It's that simple! \$15.00"⁷⁸
- o Improvised Explosives--How to Make Your Own. "Ten simple but powerful formulas for explosives and incendiaries" that gives the reader the ability "to construct actual bombs, booby traps and mines. Learn how to obtain or make all the necessary chemicals or get acceptable substitutes. Various fuses, detonators, and chemical and electrical timers are covered, as are pipe bombs, plastic bottle bombs, jerry can bombs and tamperproof bombs. With ease, you can construct such devices as a package bomb, booby-trapped door, auto trap, sound-detonated bomb, or pressure mine--to name just a few. \$10.00"⁷⁹
- o How to Kill (volumes one through six). "[M]akes no moral judgments, but merely describes what has been known for years by the professionals who are part of the shadowy world of international espionage and intrigue. As the author states in his preface, 'My only premise is that there are times when one must attack with complete ruthlessness and fight with lethal fury. This fury and ruthlessness must be harnessed and directed to the gravest possible damage--to kill.'" Priced at \$8 per volume, the catalog notes that no book in the How to Kill series is available in Canada due to legislation by the Canadian solicitor general.⁸⁰

In addition to operating a 24-hour-a-day, toll-free order line and offering a "no questions asked" money-back guarantee, Paladin Press also offers gift certificates, which "make excellent gifts for you to send to friends and relatives."⁸¹

Firepower's Everett Moore also runs a mail-order publications house. Moore's Desert Publications offers many of the same publications as his competitors under headings that include: weapons and firearms, specialized warfare, police science, survival, self-defense, full-auto, suppressors, and improvised munitions.⁸² Moore, who sells between 2,000 and 5,000 copies of specific titles a year, refers to the publications as "big boy toys," adding, "I haven't known a man yet who didn't like [to know how] to pick a lock."⁸³

The catalog of Phoenix Systems, Inc., located in Evergreen, Colorado, offers its buyers "The Right Stuff," which includes:

- o U.S. Military Practice Grenades "with ALL the mechanical parts IN THE FUSE ASSEMBLY!!! -- NO EXPLOSIVES." The ad warns that "ACTIVATION OF THESE DEVICES REQUIRES PRIOR BATF APPROVAL. \$19.95 each."⁸⁴
- o Booby Trap Firing Device (M-1), "Standard U.S. Military PRESSURE RELEASE firing device used to initiate detonation of explosive charges in BOOBY TRAP applications or remote firing of Claymore mines. EXCELLENT training device because it is RELOADABLE with new primer caps (when not coupled DIRECTLY TO AN EXPLOSIVE CHARGE). Hundreds of applications -- can be screwed directly into an explosive charge for instantaneous detonation or coupled to detonator cord for remote firing. \$14.95 each."⁸⁵
- o The Ballistic Knife--The Knife That Shoots. "CONGRESS OUTLAWED THE SPRINGS--BUT YOU CAN STILL BUY THE KNIFE!" The knife "can be fired up to an effective range of 30 feet. The typical penetration of this knife is about three times that of a manual stab. Extra blades and flight stabilizer available. \$79.95 each." Under the heading "ATTENTION COLLECTORS AND SPORTSMEN," the ad notes, "Due to recent Federal regulation, the Ballistic Knife may no longer be sold with the projection spring. The Ballistic Knife, IN LEGAL KIT FORM, that we are now able to sell, is identical to the original knife without the spring included." The ad adds, "WE SELL NO SPRINGS."⁸⁶
- o "FULL AUTOMATIC FIRE FOR YOUR AR-15. The drop-in auto sear is the KEY component in converting an AR-15 to M-16 selective fire capability (semi or full automatic) and is the ONLY part for this conversion that is now required to be registered if CURRENTLY manufactured. OUR auto sears were manufactured prior to 11/1/81 when it was NOT required to have a serial number stamped on this part. COMPLETELY LEGAL TO PURCHASE." With the purchase of "five other commonly available M-16 replacement parts," the conversion can be made "in SECONDS without tools." The ad urges readers to "Act now while it is still legal to purchase these auto sears. When existing supplies are exhausted, THERE WILL BE NO MORE!! \$175.00 each."⁸⁷

The recommended reading list of the catalog includes books on silencers; on UZI, MAC-10, and AR-15 conversions; and on home munitions. Other products available through ads placed in these magazines include:

- o The BMF Activator, a hand crank that can be attached to a rifle, boasts the "newest crank-operated rapid fire capability since the gatling gun!! Legally fire up to 1200 rounds per minute on your semi-automatic .22 rifle. Imagine the sensation of firing a truly rapid fire rifle. Since each turn of the crank handle fires the rifle four times, it is capable of pulling the trigger many times faster than you can." The advertising flyer for the activator includes a copy of a letter from ATF stating that "a manually operated device of this type is not subject to any of the provisions of the Gun Control Act of 1968."⁸⁸
- o The Tri Burst Trigger Activator, distributed by Orpheus Industries, offers "legal firepower." It "allows a 3-round burst from your AR-15...mounts in seconds" and fits "all makes" of AR-15 rifles. It sells for a "special introductory price" of only \$34.95.⁸⁹
- o "The Ultimate" trigger activator derides its competitors as "the rapid fire plastic gizmo and the sheet metal device." With models available for the AR-15, Mini-14 and 30, M-1 Carbine, and AK models, The Ultimate allows the user to "fire individual rounds, 3 shot bursts or 50 round bursts at your instant discretion." The ad notes that "all federal laws (if any) will apply. The ATF has ruled this device is not regulated by federal law." It retails for \$129.95.⁹⁰
- o The API Predator Laser Target Designator is equipped with "helium neon lasers" that "project an intense, narrow beam of red light" with "an effective range" of up to 500 meters. Laser sights give their users point-and-shoot assassination capability. "Generally, the only visible element of the laser beam is a spot on a solid object that reflects light back to the operator. The beam itself is invisible in clear air." Priced at \$495, the API laser sight is only one of many laser sights on the market, with some costing hundreds of dollars less.⁹¹
- o An ad for Kephart Publications offers plans for such exotic weapons as: hand, rifle, and shotgun grenades; L.A.W., RPG-7, Bazooka, Pod, Pocket, Shotgun, and T.O.W. rockets; claymore and land mines; flame throwers; and others. The ad guarantees "these plans are legal to own and make according to

BATF provisions" and promises that the "basic information is complete and all WILL work. All devices are simple to make and very inexpensive. Only common material and hand tools required. NO MACHINE SHOP WORK." The ad offers any 10 plans for \$55.00.⁹²

- o The "Deadly Weapons--Firearms & Firepower" video tape advertisement features an assassination kit of a silenced MAC-10 in a briefcase. The ad asks, "Do you know which bullets will penetrate a car door? A windshield? Just how quiet is a real silencer? How effective is full auto fire?" Purchasers of the tape can "SEE & Learn the Answers to these questions and much more!" The tape sells for \$49.95.⁹³
- o The "Ninety Rounder" is a circular "assault magazine" that can hold 90 rounds of ammunition "for people who want real firepower!" Offered by the MWG Company it promises "LMG [light machine gun] Type Firepower From a Semi Auto Rifle." It retails for 49.95.⁹⁴
- o For the leisure hours, "Rock N' Roll #3--Sexy Girls and Sexy Guns, The Video" offers "14 outrageous, southern California beauties...firing some of the sexiest machine guns ever produced. And you're probably wondering about the girls. What can I tell you? They're hot. 14 different girls in string bikinis and high heels blasting UZIs, MAC-10s, M-16s, MP-5s, AK-47s, M-14s and more. It's something you just have to see."⁹⁵

PARAMILITARY TRAINING CAMPS AND COMBAT SCHOOLS

Those interested in assault weapons and combat techniques do not need to rely solely on book knowledge. Around the United States, training centers--from the paramilitary training camps of right-wing extremists to commercial combat schools--offer training in the use of weapons, explosives, and combat skills.

According to testimony offered before the Subcommittee on Security and Terrorism in September 1985, paramilitary/mercenary training camps can be broken down into three categories:

- o Franchises or commercial establishments that offer training to law enforcement or security firms worldwide;
- o Paramilitary and survivalist organizations that offer training in the use of small arms, map reading, and survival under extreme circumstances (those operated by the Covenant, Sword and Arm of the Lord, for example). According to the Anti-Defamation League of

B'nai B'rith, many of these camps also include an indoctrination of race hatred.

- o Mercenary training camps, the goal of which is to offer the knowledge and skills necessary to be a soldier-for-hire.⁹⁶

In 1984, paramilitary training camps garnered media attention when the FBI revealed that several Sikh students had attended a two-week session at the Merc School in Dolomite, Alabama, with the intention of using their new-found knowledge to assassinate Indian Prime Minister Rajiv Gandhi.⁹⁷

At the time, the Merc School's owner, Frank Camper, stated that he operated strictly within the law and was merely training people to survive in combat situations.⁹⁸ Said Camper, "If someone were to train with me and to go away and perform an act of terrorism, then I'm not responsible for that person's actions. They are responsible for themselves."⁹⁹ (Camper, however, apparently did inform on the Sikh students to the FBI, helping lead to their arrest.)

Critics of the camps argue that those run by survivalist and paramilitary organizations are turning out terrorists. The ADL states in the fall issue of its 1986 Law Report, "ADL Paramilitary Training Statute: A Response to Extremism," that in many camps, "'combat' training is interspersed with the indoctrination of hatred and totalitarianism in preparation for anticipated civil strife, the rationale being the vision of a 'coming race war.'"¹⁰⁰

In 1980 such camps were uncovered in Alabama, California, Connecticut, Illinois, North Carolina, and Texas.¹⁰¹ Daniel M. Hartnett, ATF Acting Deputy Associate Director, Law Enforcement, stated at the 1985 hearings that camps run by extremists have shown "a willingness to commit violent crimes to further their cause and support their movement."¹⁰²

A 1985 raid conducted by law enforcement officials at a compound run by the Posse Comitatus outside of Rulo, Nebraska, yielded a cache of weapons that included assault rifles and 13 fully automatic pistols and rifles, including modified AR-15s.¹⁰³

In 1986, the ADL formulated model state legislation that would ban paramilitary training "aimed at provoking civil disorder."¹⁰⁴ In drafting the model bill, the ADL specifically stated that the statute must not violate First Amendment freedoms of speech and association. Another objective was to draft the statute narrowly so that it would not prohibit legitimate lawful activities such as target shooting and other sporting events. This was important, the ADL stated, for "minimizing opposition to the bill by powerful special interest groups."¹⁰⁵ Laws based on the statute have passed in Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Michigan,

Missouri, Nebraska, New Jersey, North Carolina, Oregon, Pennsylvania, Rhode Island, Virginia, and West Virginia.¹⁰⁶

In a statement opposing legislation restricting paramilitary training camps, America's leading pro-gun organization, the National Rifle Association (NRA), based in Washington, D.C., states that such "legislation is objectionable because it makes the mere possession of firearms a crime, therefore undermining the right to keep and bear arms" and that "the constitutionality of such legislation is questionable at best, and could not, in all probability, withstand a court challenge based on violation of First Amendment rights."¹⁰⁷

The controversy has faded since the 1985 hearings, although camps and schools continue to operate. The FBI currently has no figures on the numbers of camps and schools operating in the United States. One such school, Brigade Security Forces, located in Mooreville, North Carolina, offers six-day courses in "commando tactics." It offers "absolutely the best firearms training available with numerous NATO and COMMUNIST firearms." One can also enroll in a special 30-day course "designed for the adventurer that demands it all in one course." Counter terrorist, sniper, and covert operations are some of the areas covered. Brigade also offers private instruction for "Individuals or Groups who desire Total Secrecy and Special Training. NO COMMUNISTS, GAYS, ATHIESTS [sic]!!!" are allowed, and one must be at least 16 years old to attend.¹⁰⁸

THE ASSAULT WEAPONS DEBATE

Not surprisingly, the increasing number and subsequent misuse of assault weapons has resulted in a growing debate over their place in American society. The battle lines mirror those drawn over other such "gun control" issues as waiting periods for handgun purchases, bans on armor-piercing bullets, and restrictions on the sale of "plastic" firearms. On one side of the debate is America's gun lobby. The other side consists of handgun restriction advocates and various police organizations.

America's gun lobby--composed of pro-gun organizations, manufacturers, and various publications--staunchly opposes any restrictions on the sale or availability of assault weapons. The leading voice of dissent belongs to the NRA. With 2.7 million members and a budget of more than \$71 million, the NRA is America's largest and most powerful pro-gun organization.¹⁰⁹ In 1987 the organization published a pamphlet entitled Semi-Auto Firearms--The Citizen's Choice. A year later the organization published Semi-Auto Rifles: Data and Comment, a collection of articles on semi-automatics that had appeared in the NRA's magazine, The American Rifleman.

In both the pamphlet and the book, the NRA presents the controversy over assault weapons as a broader attack on all semi-

automatic firearms, including hunting rifles with semi-automatic mechanisms. By framing the debate as one concerning all semi-autos, as opposed to a specific category of semi-auto, the NRA is able to present efforts to restrict assault weapons as a threat to hunters. The NRA recognizes the fact that it is far easier to mobilize its membership and non-NRA outdoorsmen with images of banning their trusted hunting rifles as opposed to UZIs or TEC-9s.

The cover of Semi-Auto Firearms--The Citizen's Choice features a duck hunter, duck call in mouth, silhouetted against a bright orange sunrise. In his hand he appears to hold a shotgun. On the first page of the pamphlet, the NRA offers its view of the debate: "The national media and organized 'gun control' groups have advanced from demanding prohibitions on certain handguns and ammunition, to calls for banning semi-automatic firearms. The pattern is obvious, and the strategy has long been clear--isolate certain types of firearms, label them as inherently 'evil' or 'crime prone,' and then try to segregate and drive a wedge between firearms owners...¹¹⁰ Fully automatic and high-tech firearms often seen on television programs, and in popular yet violent movies, perpetuate the myth that 'semi-autos' are frequently used for criminal purposes...¹¹¹ Even to experts, admittedly, semi-automatic target or sporting rifles such as the AR15 and M1A look like the full-automatic military M16s and M14s. Why not? A civilian jeep looks like a military jeep, a civilian tent looks like a military tent and a civilian shooter at the national Matches at Camp Perry looks very much like his military counterpart."¹¹²

(The NRA's stand on assault weapons is not surprising considering the fact that it has labeled repeal of the 1986 federal ban on the future production of machine guns for civilian use a "high priority."¹¹³ In outlining its position on machine guns, the organization states, "Sporting events involving automatic firearms are similar to those events such as silhouette shooting and other target-related endeavors and deserve the same respect and support."¹¹⁴ The NRA promises that it "will take all necessary steps to educate the public on the sporting uses of automatic firearms"¹¹⁵ and explains that "The Second Amendment is not limited by its language to the type of arms that the people have the right to own."¹¹⁶ The organization supports "the right of any law abiding individuals to own any firearms, including automatic firearms."¹¹⁷) (Although the NRA was asked to answer questions regarding its stand on assault firearms, the appropriateness of Soldier of Fortune publisher Robert K. Brown being on its board of directors, paramilitary accessories, and paramilitary training camps, a spokesman, after reviewing the questions, stated that the NRA was "declining to provide information for this report.")

While the NRA struggles to turn the assault weapons debate into a semi-auto debate for public relations purposes, legislators and members of the press have been making it into one

inadvertently. Neither of America's national handgun restriction organizations has come out in favor of restricting or banning all semi-autos, and have only recently begun dealing with long guns (there is no national organization calling for restrictions on all guns). Yet in discussions of assault firearms, those urging restrictions on these weapons have used the terms assault, paramilitary, and semi-automatic weapon interchangeably. This misuse apparently stems from an unfamiliarity with weapons terminology and a lack of understanding of the wide range of weapons covered by the term semi-automatic. As the result of this lack of knowledge, and the difficulties in defining assault weapons in legal terms, laws have been proposed on the state level that would place waiting periods on all semi-auto weapons. In August 1988, The New York Times ran two editorials in favor of such a law on the federal level, as well as urging a ban on the sale of assault weapons. 118

According to John Hosford, executive director of the Citizens Committee for the Right to Keep and Bear Arms (CCRKBA), a 500,000 member pro-gun organization located in Bellevue, Washington, the issue of paramilitary weapons will be addressed at the organization's board meeting in September 1988. Says Hosford, "It would be safe to say that we will take an aggressive position in support of these." Founded in 1971, the CCRKBA favors a repeal of the Gun Control Act of 1968 and has lobbied against gun control ordinances on the local, state, and federal level. 119

The 100,000 plus-member Gun Owners of America (GOA), located in Springfield, Virginia, views the assault weapons debate as part of a long-range plan by handgun restriction advocates to disarm America. Says GOA Director of Government Affairs Craig Markva, "The goal was to target the machine guns first, then the semi-autos, and right along with the handguns. The whole premise [of handgun restriction organizations] has been based upon the fact that the Second Amendment is a hunting right." But Markva argues, "the whole idea of the Second Amendment is self-defense. The goal of the anti-gunner is to isolate different categories of firearms for control or banning, and then move on. The slippery slope is alive and well and continues rolling on."

America's handgun restriction movement has been cautious in its response to the assault weapons debate. Their reticence is understandable. By moving against a category of firearm that is not only a long gun, but difficult to define, they run the risk of appearing to prove the gun lobby right: that is, that handgun restrictions are merely the first step down the aforementioned slippery slope.

In the past, the "gun control" debate was easily defined. "Good" guns were long guns that were used for hunting and sporting purposes, while "bad" guns were easily concealable handguns that had limited sporting use and were prone to misuse.

Previously, the standard for restricting weapons involved concealability and a cost/benefit analysis: Is the harm done by a given category of firearm outweighed by any possible benefit? Yet, although assault weapons are frequently misused and many are more concealable than standard long guns, a new standard is emerging: For what purpose was this weapon designed? The first application of this standard came in 1986, when Congress voted to outlaw the future production of machine guns for civilian use. The number of criminal incidents involving legally owned machine guns prior to the ban had been few. Yet, Congress saw no reason for this category of weapon to remain in civilian hands.

Handgun Control Inc. (HCI), based in Washington, D.C., is America's leading handgun restriction organization. The organization has more than 180,000 dues-paying members and an annual budget of more than \$4 million. Its vice-chair is Sarah Brady, wife of White House press secretary James Brady, who was injured in the March 1981 assassination attempt on President Reagan. In its organization brochure, HCI calls for the "restriction on the sale of UZI-type assault weapons, the weapons of war like that used in the 1983 McDonald's massacre in California." The organization adopted this stand in 1983. Recently, HCI has run newspaper ads calling for unspecified restrictions on assault weapons, labeling them "drug guns." In addition, HCI came out in favor of banning the Striker-12 from import. In addition to its stand on "UZI-type assault weapons," the organization favors a waiting period with background check for all handgun purchases, a ban on the sale of snub-nosed handguns, and a ban on the production and sale of plastic handguns.¹²⁰

The National Coalition to Ban Handguns (NCBH), based in Washington, D.C., is a coalition of 31 national religious, professional, educational, and public health organizations that favors banning the sale and private possession of handguns in America. Exceptions to this would include possession by police, military personnel on active duty, target shooters who keep and use their handguns at bona fide shooting clubs, and federally licensed collectors. NCBH has approximately 20,000 members and an annual budget of \$400,000. Prior to 1985, the organization dealt only with handguns. But in May of that year, its board voted to work to ban the sale and private possession of machine guns. Currently, its board is considering whether to endorse banning the sale and private possession of assault weapons. It is scheduled to reach a decision at its November 1988 meeting.¹²¹

The Law Enforcement Steering Committee is the leading voice of law enforcement on the gun control issue. The Committee consists of: the Federal Law Enforcement Officers Association; the International Association of Chiefs of Police; the Fraternal Order of Police; the International Brotherhood of Police Officers; the National Association of Police Organizations; the Police Executive Research Forum; the Police Management

Association; the Police Foundation; the Major Cities Chief Administrators; the National Organization of Black Law Enforcement Executives; and the National Troopers Coalition.¹²² As of September 1988, none of the members of the Committee have adopted an official stand on assault weapons, although the topic is scheduled to be discussed in the future.¹²³

On the federal level, no bills dealing with assault weapons have yet been introduced in Congress. It is expected that such a bill will be introduced sometime during 1989.

On the state level, the first proposed law restricting the availability of assault weapons was introduced by California State Representative Art Agnos (Dem., San Francisco) in 1985. (Agnos was elected mayor of San Francisco in 1987.) The law, which would have banned the sale and possession of specific assault weapons--such as the UZI, MAC, and AR-15--failed to pass. In 1988, Assemblyman Michael Roos (Dem., Los Angeles) introduced a measure that also would have banned specific assault weapons. The bill was later amended to require instead a 15-day waiting period with background check for all semi-automatic weapons. The amended version of the bill failed to pass. Roos expects to file a bill next year that would place a waiting period on specific assault weapons.¹²⁴

In addition, product liability lawsuits have been filed against manufacturers of assault weapons. Such suits are based on the legal theory that the manufacturers of these weapons know that their products are inherently dangerous and prone to criminal misuse. Therefore, they should be held responsible for the resulting death and injury. One of the first product liability suits dealing with an assault weapon was filed on April 22, 1987, against Intratec USA, manufacturers of the TEC-9. The suit was filed by the estate of David L. Bengston of Connecticut. Bengston, a high school janitor, was fatally shot by an eighth grader on December 10, 1985, with a TEC-9 that belonged to the student's father. The student later held a classroom of children hostage until his father came and convinced him to turn over the weapon. In their complaint, attorneys for Bengston argued that the TEC-9 is in fact a super Saturday Night Special. The case is currently awaiting trial.¹²⁵

The first victory for proponents of the legal theory that some handguns are inherently defective because of specific design characteristics occurred on October 3, 1985, when the Maryland Court of Appeals ruled in Kelley v. R. G. Industries that manufacturers of Saturday Night Specials could be held liable for their criminal misuse. The case stemmed from a March 1981 robbery in which the plaintiff, Olen J. Kelley, was shot in the chest with a Rohm handgun.¹²⁶ (As part of the law outlawing the sale of Saturday Night Specials passed in Maryland in 1988, the Maryland legislature--as part of a compromise with the gun lobby--added a component that would in effect nullify the Kelley decision.)

The signs are increasing of a growing awareness that America has an assault weapons "problem." At the end of its July 1988 documentary on handgun violence in America, "Guns, Guns, Guns," NBC reporter Connie Chung notes the increasing misuse of assault weapons like the UZI.¹²⁷ In his speech at the Democratic National Convention, Democratic presidential candidate Jesse Jackson, states of drug dealers, "They say, 'We don't have Saturday Night Specials any more.' They say, 'We buy AK-47s and UZIs, the latest lethal weapons. We buy them across the counter on Long Beach Boulevard.' You cannot fight a war on drugs unless and until you are going to challenge the bankers and the gun sellers...."¹²⁸

CONCLUSION

Assault weapons are increasingly being perceived by legislators, police organizations, handgun restriction advocates, and the press as a public health threat. As these weapons come to be associated with drug traffickers, paramilitary extremists, and survivalists, their television and movie glamour is losing its lustre to a violent reality.

Because of this fact, assault weapons are quickly becoming the leading topic of America's gun control debate and will most likely remain the leading gun control issue for the near future. Such a shift will not only damage America's gun lobby, but strengthen the handgun restriction lobby for the following reasons:

- o It will be a new topic in what has become to the press and public an "old" debate.

Although handguns claim more than 20,000 lives year, the issue of handgun restriction consistently remains a non-issue with the vast majority of legislators, the press, and public. The reasons for this vary: the power of the gun lobby; the tendency of both sides of the issue to resort to sloganeering and pre-packaged arguments when discussing the issue; the fact that until an individual is affected by handgun violence he or she is unlikely to work for handgun restrictions; the view that handgun violence is an "unsolvable" problem; the inability of the handgun restriction movement to organize itself into an effective electoral threat; and the fact that until someone famous is shot, or something truly horrible happens, handgun restriction is simply not viewed as a priority. Assault weapons--just like armor-piercing bullets, machine guns, and plastic firearms--are a new topic. The weapons' menacing looks, coupled with the public's confusion over fully automatic machine guns versus semi-automatic assault weapons--anything that looks like a machine gun is assumed to be a machine gun--can only increase the chance of public support for restrictions on these weapons. In

addition, few people can envision a practical use for these weapons.

- o Efforts to stop restrictions on assault weapons will only further alienate the police from the gun lobby.

Until recently, police organizations viewed the gun lobby in general, and the NRA in particular, as a reliable friend. This stemmed in part from the role the NRA played in training officers and its reputation regarding gun safety and hunter training. Yet, throughout the 1980s, the NRA has found itself increasingly on the opposite side of police on the gun control issue. Its opposition to legislation banning armor-piercing ammunition, plastic handguns, and machine guns, and its drafting of and support for the McClure/Volkmer handgun decontrol bill, burned many of the bridges the NRA had built throughout the past hundred years. As the result of this, the Law Enforcement Steering Committee was formed. The Committee now favors such restriction measures as waiting periods with background check for handgun purchases, and a ban on machine guns and plastic firearms. If police continue to call for assault weapons restrictions, and the NRA continues to fight such measures, the result can only be a further tarnishing of the NRA's image in the eyes of the public, the police, and NRA members. The organization will no longer be viewed as the defender of the sportsman, but as the defender of the drug dealer.

- o Efforts to restrict assault weapons are more likely to succeed than those to restrict handguns.

Although the majority of Americans favor stricter handgun controls, and a consistent 40 percent of Americans favor banning the private sale and possession of handguns,¹²⁹ many Americans do believe that handguns are effective weapons for home self-defense and the majority of Americans mistakenly believe that the Second Amendment of the Constitution guarantees the individual right to keep and bear arms.¹³⁰ Yet, many who support the individual's right to own a handgun have second thoughts when the issue comes down to assault weapons. Assault weapons are often viewed the same way as machine guns and "plastic" firearms--a weapon that poses such a grave risk that it's worth compromising a perceived constitutional right.

Although the opportunity to restrict assault weapons exists, a question remains for the handgun restriction movement: How? Defining an assault weapon--in legal terms--is not easy. It's not merely a matter of going after guns that are "black and wicked looking." Although those involved in the debate know the weapons being discussed, it's extremely difficult to develop a

legal definition that restricts the availability of assault weapons without affecting legitimate semi-automatic guns. Most likely, any definition would focus on magazine capacity, weapon configuration, muzzle velocity, the initial purpose for which the weapon (or its full-auto progenitor) was developed, convertibility, and possible sporting applications. Any law based on this definition would, however, need to have a clause to excuse legitimate semi-automatic weapons that would inadvertently fall under it. And although legislation could be passed that would ban specific weapons, the world's arms manufacturers are expert at producing weapons that follow the letter, but not the intent, of the law. This often results in products that are virtually identical to the restricted weapon, yet different enough to remain on the market.

Yet, the framework for restricting assault weapons already exists. On the federal level, ATF currently excludes from import handguns recognized as Saturday Night Specials. This is done by application of criteria designed by the agency that takes into account such things as barrel length, caliber, quality of materials, safety devices, and other factors. Any gun that does not meet the importation threshold cannot be sold in the United States. Any manufacturer whose product is refused for import can challenge the decision in federal court. Criteria to identify and categorize assault weapons could be developed by ATF and applied toward restricting the availability of both foreign- and domestically-produced assault weapons.

The state of Maryland has taken a similar approach in banning the sale of Saturday Night Specials. The 1988 Maryland law established a nine-member board responsible for creating a roster of permitted handguns. The nine members of the board include: the superintendent of the state police; representatives of the Maryland States' Attorney's Association, Maryland Association of Chiefs of Police, Marylanders Against Handgun Abuse, the National Rifle Association, and a Maryland gun manufacturer; and three citizen board members to be determined by the governor. After January 1, 1990, the law requires that no person in Maryland may: manufacture a handgun not on the Handgun Roster, or sell or offer to sell any handgun not on the Handgun Roster that was manufactured after January 1, 1985. In determining whether a handgun has a legitimate use and can therefore be placed on the roster, the board will consider: concealability; ballistic accuracy; weight; quality of materials; quality of manufacture; and reliability as to safety, caliber, and detectability by standard security devices used at airports and courthouses.¹³¹ States could develop similar rosters to ban the sale of assault weapons.

Since passage of the Maryland law, the NRA has collected enough signatures of Maryland residents to bring the measure to referendum on the November 1988 ballot. The NRA's opposition to such a panel is not surprising. The organization fears giving the government, at any level, the power to restrict the

availability of firearms--conjuring up images of a "gun czar." And although such proposals would solve the definitional problems posed by assault weapons, it would guarantee fierce opposition from the gun lobby.

The success of any proposed legislation to restrict assault weapons and their accessories depends not only on whether the American public pays attention to the topic, but agrees that these products are dangerous. Obviously, some aspects of America's fascination with assault weapons and their accessories are here to stay. Publications are clearly protected under the First Amendment of the Constitution. Yet the weapons themselves, and accessories such as laser sights and grenades requiring only the explosive charge, can be restricted and even banned at the local, state, or federal level. The fact that assault weapons are increasingly being equated with America's drug trade may play a major role in motivating the public to call for their restriction. Yet, recognizing the country's fascination for exotic weaponry and the popular images and myths associated with guns, it may require a crisis of a far greater proportion before any action is taken.

APPENDIX I

According to law enforcement officials, federal agencies, and handgun control organizations, the assault weapons of choice appear to be the following (all models are semi-automatic versions):

AK-47--The Kalashnikov rifle, also known generally as the AK-47, was developed in the Soviet Union in 1947 by Mikhail T. Kalashnikov. Semi-automatic versions of a Chinese model--the Model 56--are currently imported into the United States, as are models developed by other countries. The Chinese AK-47 produced by POLY Technologies and distributed in the United States by PTK International, Inc., is 34 3/8 inches long. With a folding stock, the weapon has an overall length of 34 5/8 with the stock extended, and approximately 30 inches folded. The weapon can accept 20-, 30-, 40-, and 75-round magazines.¹³² Semi-automatic versions of the AK-47 retail for as little as \$300.¹³³

AR-15A2--The AR-15A2, commonly known as the AR-15, is manufactured by Colt Industries of Hartford, Connecticut. It is the civilian version of the company's M-16 machine gun. The AR-15A2 rifle has an overall length of 39 inches. The Government Model Carbine comes with a folding stock. Its overall length with the stock folded is 35 inches, 32 closed. In 1987 the company introduced the Delta HBAR, a sniper rifle version of the rifle. The weapon comes with a 5-round magazine, but can accept a variety of high-capacity magazines.¹³⁴ The AR-15A2 retails for approximately \$680.

MAC-10, MAC-11--The MAC-10 machine pistol was originally developed by Gordon Ingram at Military Armaments Corporation (MAC) in 1969. Soon thereafter, the MAC-11 was marketed and subsequently semi-auto versions of both were developed. MAC went bankrupt in 1978. Currently, the rights for the MAC-10 are owned by a Stephenville, Texas, company which took the Military Armaments Corporation name. Manufacturing rights for the MAC-11 now belong to various corporate entities operated by Sylvia and Wayne Daniels of Georgia.¹³⁵ An ad placed in Shotgun News for the semi-auto 9mm M11/9 produced by the Daniels, describes it as "The Gun That Made the '80's' Roar" and characterizes it as being as "American as God, Mom, and Apple Pie!"¹³⁶ The 9mm MAC-11 is 12.15 inches long. It comes with a 32-round magazine. The 9mm MAC-10 has a length of 10.5 inches with its stock folded and comes with a 32-round magazine. Both have threaded barrels for the attachment of silencers and barrel extensions.¹³⁷ The MAC-11 can retail for as little as \$200.

RUGER MINI-14--The Ruger Mini 14 is manufactured by Sturm, Ruger & Company, Inc. of Southport, Connecticut, and was introduced into the civilian market in 1975. With a folding stock, the weapon has an overall length of 37.75 inches, 27.5 with the stock closed. The gun comes with a standard 5-round magazine, but magazines have been developed for it that can hold up to 40 rounds.¹³⁸ The Mini-14 retails for approximately \$330.

TEC-9--The 9mm TEC-9 assault pistol was originally developed by Interdynamics AB of Sweden and produced in the U.S. by F.I.E. of Florida. The original version, the KG-9, was easily converted to full auto and was subsequently reclassified as a machine gun by ATF in 1982. Soon after, the weapon was redesigned to sell as a semi-auto and reclassified the KG-99. Subsequently, a Hong Kong company bought the rights to the weapon from Interdynamics AB and a new company, Intratec USA, was formed in the United States to manufacture the weapon, now dubbed the TEC-9. In November of 1987, Intratec USA reorganized to become Intratec. Twelve and a half inches long, the lightweight TEC-9 comes with a 36-round magazine. The TEC-9M, a smaller version of the weapon, is 10.5 inches long. Both have threaded barrels so that they can accept silencers and barrel extensions. High-impact plastic is used for the gun's receiver, magazine well, and pistol grip.¹³⁹ Promotional material for the guns describe them as being "high-spirited" and "weapons that are as tough as your toughest customers."¹⁴⁰ The TEC-9 retails for approximately \$250.

UZI--Manufactured by Israeli Military Industries, the 9mm UZI was designed in the early 1950s by Army Major Uziel Gal. In 1979, a semi-automatic version was first imported to the United States for civilian sale by Action Arms of Philadelphia. The UZI semi-auto carbine has an overall length of 24.4 inches with its stock folded, 31.5 with the stock open, and comes with a standard 25-round magazine. In 1984, the company introduced the UZI pistol, which has an overall length of 9.45 inches. In 1987, Israeli Military Industries introduced the Mini-UZI carbine, which with its stock folded has an overall length of 26.1 inches, 35.75 with the stock unfolded.¹⁴¹ A 1988 Action Arms ad for the UZI exclaims, "When the going gets tough...the tough get an UZI. Whether for a backwoods camp, RV or family home, don't trust anything less. The UZI Carbine is the perfect choice for the sportsman who wants unfailing reliability and top performance in a rugged, compact size." With a kit that will allow the weapon to use .22 ammunition, the gun becomes "an inexpensive plinker."¹⁴² The UZI carbine retails for approximately \$700, the pistol for \$510.

APPENDIX II

Paramilitary weapons are just the latest topic in the ongoing debate over the role of specific categories of firearms in American society. Unfortunately, there is often confusion among the press and public--and even among handgun restriction advocates--regarding the various types of firearms. In an article published in the April 1987, American Rifleman, National Rifle Association staff member Paul Blackman writes, "When a reporter calls a semi-automatic rifle, pistol or shotgun a "submachine gun"...He may just not know any better." Blackman's right. He points out that The Associated Press Stylebook and Libel Manual incorrectly defines a "submachinegun" as "A lightweight automatic or semiautomatic gun firing small arms ammunition."¹⁴³

Recognizing this, descriptions of the various categories of firearms are as follows:

Firearms refer to weapons that use a powder charge to fire a projectile. (Airguns such as BB and pellet guns use a burst of air to fire their projectiles and hence are not considered firearms, although they are capable of inflicting severe or fatal injuries.)

Firearms have been broken down into essentially two groups: long guns and handguns. Long guns are weapons designed to be fired from the shoulder. According to ATF standards, to qualify as a rifle, the shoulder-fired weapon must have a barrel length of 16 inches, 18 inches for a shotgun.¹⁴⁴ Handguns are firearms designed to be fired from a single hand and are usually defined as having an overall length of less than 18 inches.¹⁴⁵ Repeating firearms are those that allow the shooter, by operating a mechanism on the gun, to load another round into the gun after a shot has been fired. Manually operating the bolt, lever, pump, or other mechanism extracts and ejects the empty case after the cartridge has been fired. It then reloads a fresh shell or cartridge from the magazine into the chamber and cocks the gun. Semi-automatic guns do this automatically when they fire. With each squeeze of the trigger the semi-automatic repeats the process of firing, ejecting, and reloading.¹⁴⁶ Although a semi-automatic will fire only one cartridge per trigger pull, an automatic will continue to fire cartridges as long as the trigger is pulled. An automatic is also known as a machine gun. More than 119 million rifles and shotguns have been produced in the U.S. since 1899.¹⁴⁷ It is estimated that the majority of these weapons remain in circulation.

Handguns can be either revolvers or semi-automatic pistols. Revolvers have a round cylinder that is actually the magazine and acts as a chamber when properly aligned with the barrel. In double-action revolvers, each time the trigger is pulled the weapon fires and the cylinder advances to the next chamber. Single-action revolvers require that the hammer be

manually cocked before each shot. A revolver's cylinder usually holds six cartridges. Instead of a revolving cylinder, a semi-automatic handgun (also known as a pistol) carries its extra cartridges in a magazine usually located in the handle of the handgun. Spring pressure forces the cartridges upward in the magazine. Each time the weapon is fired, a new cartridge is moved up and is loaded into the chamber. Pistol magazines usually hold between 14 and 17 cartridges.¹⁴⁸ Pistols are often known as "automatics" although they do require a separate trigger pull for each shot. Pistols that are fully-automatic, that is, that will continue to fire as long as the trigger is pulled, are known as machine pistols.

Handguns with barrel lengths of three inches or less are known as "snubbies." Snubbies are preferred by criminals because of their increased concealability. A subcategory of snubbies are Saturday Night Specials--inexpensive, inaccurate snubbies made of inferior materials. Because of their low quality and inaccuracy, these weapons have no sporting purpose and are best suited for criminal use. There are an estimated 35 to 40 million handguns in America.¹⁴⁹

Assault firearms are semi-automatic (firing one bullet per trigger pull) and fully automatic (the weapon will keep on firing as long as the trigger is depressed) anti-personnel rifles, shotguns, and handguns that are designed primarily for military and law enforcement use. With muzzle velocities that are often greater than standard long guns, and high-capacity ammunition magazines, assault weapons are built to kill large numbers of human beings quickly and efficiently. Most assault weapons have no legitimate hunting or sporting use. Assault rifles and shotguns often have pistol grips and folding stocks, and are typically lighter and more concealable than standard long guns. Some assault pistols have threaded barrels for the easy attachment of silencers. Many assault weapons are merely semi-automatic versions of military machine guns, making them easier to convert to fully automatic machine guns.

1. McNamara, Joseph D., "Developing a Rational, National Firearms Policy," The Police Chief, (March 1988), p. 26.
2. It was estimated by the National Coalition to Ban Handguns in 1985 that there were more than 500,000 assault weapons in civilian hands, an unknown number of which had been converted to fully automatic machine guns, a figure which the Bureau of Alcohol, Tobacco and Firearms concurred with. Recent estimates in the press (See footnote #5) have put the figure at between 650,000 and two million. Because of the fact that manufacturers are not required to release sales figures and there is no differentiation between standard long guns and assault weapons in reporting, there are no totally reliable figures on America's assault weapons population.
3. McNamara, p. 26.
4. "Virginia Man Held for Transporting Guns," The Washington Post, (January 30, 1988), p. A7.
5. "The Arms Race in Your Own Back Yard," U.S. News & World Report, (April 4, 1988), p. 24.
6. "Machine Gun U.S.A.," Newsweek, (October 14, 1985), p. 50.
7. "Three Officers Slain Serving Routine Warrant," United Press International, July 10, 1987. Additional information obtained from the Inkster, Michigan, police department, August 1988.
8. "11 Hostages Held at Virginia Shopping Mall," The Washington Post, (September 15, 1988) p. A22.
9. Coates, James, Armed and Dangerous: The Rise of the Survivalist Right, Hill and Wang, New York, (1987), p. 8.
10. Fox, James Alan and Levin, Jack, Mass Murder: America's Growing Menace, Plenum Press, New York and London, (1985), p. 63.
11. Interview with David W. Cooney, attorney for the estate of David Bengsten, August, 1988.
12. "Manassas Mourns 1st Officer Slain in 115 Years," The Washington Post, (July 26, 1988), p. A1, A9.
13. "Florida Gunman Charged With Killing 6," The New York Times, (April 25, 1987), p. A9.

14. "Seized Arsenal Tied to "Crack Dealers," The Washington Post, (March 8, 1988), p. A6. Additional information obtained from ATF New York office, September, 1988.
15. "Arms Race Escalates," The Washington Post, (February 23, 1988), p. B5.
16. Interview with ATF spokesperson Tom Hill, July 1988.
17. Interview with Detective Bohannon, July 1988.
18. Lawn, John C., "Drug Dealers' Sophisticated Weaponry Poses Continuing Threat," The Police Chief, (March 1988), p. 47.
19. "D.C. Police to Boost Drug War Firepower," The Washington Post, (February 10, 1988), p. A1, A12.
20. "Arms Race Escalates," p. B5.
21. Interview with ATF spokesperson Tom Hill, August 1988.
22. American Industries advertisement, Firepower, (September 1988), inside back cover.
23. Information obtained from American Industries, 405 East 19th Street, Bakersfield, California, August 1988.
24. Street Sweeper advertisement, Shotgun News, (January 20, 1988), p. 154, 155.
25. "The Arms Race in Your Own Back Yard," p. 24.
26. Interview with DEA spokesperson Maurice Hill, July 1988.
27. Interview with ATF spokesperson Tom Hill, July 1988.
28. McGuire, Phillip C., "Jamaican Posses: A Call for Cooperation Among Law Enforcement Agencies," The Police Chief, (January 1988), p. 22.
29. Coates, p. 136.
30. Coates, p. 143.
31. "Suspect Denies Having Role in Plot to Kill Jackson," Detroit Free Press, (May 19, 1988), p. 16A.
32. Information obtained from the National Coalition to Ban Handguns.
33. Information obtained from Bureau of Alcohol, Tobacco and Firearms.

34. Information obtained from the Bureau of Alcohol, Tobacco and Firearms.
35. Information obtained from the National Coalition to Ban Handguns.
36. Information obtained from the National Coalition to Ban Handguns.
37. "Militarism in America," The Defense Monitor, Volume XV, Number 3, p. 1.
38. Interview with Daniel Amundson, September 1988.
39. Interview with Daniel Amundson, July 1988.
40. Production figures obtained from the Bureau of Alcohol, Tobacco, and Firearms by the Educational Fund to End Handgun Violence under the Freedom of Information Act.
41. Information obtained from the National Coalition to Ban Handguns.
42. Colt Industries advertising flyer.
43. Heckler & Koch advertising flyer.
44. F.I.E. advertisement, Firepower, (September 1988), inside front cover.
45. Daisy 1986 Airguns, Ammo and Accessories Catalog. Obtained from Daisy Manufacturing Company, Inc., Rogers, Arkansas, 72757-0220.
46. Crosman Airguns 1987 catalog. Obtained from Crosman Airguns, Routes 5 & 20, East Bloomfield, New York, 14443.
47. Larc International advertisement, Shotgun News, (January 20, 1988), p. 114.
48. Command Post, Inc., Firepower, (September 1987), p. 63.
49. Daisy 1988 Toy Gun catalog. Obtained from Daisy Manufacturing Company, Inc., Rogers, Arkansas, 72757-0220.
50. Interview with IACP spokesperson Wendy Howe, July 1987.
51. Interview with Daisy spokesperson David Lewis, August 1988.
52. Interview with Everett Moore, July 1988.
53. American Survival Guide, (August 1988), p. 4.
54. American Survival Guide, p. 66.

55. Interview with American Survival Guide spokesperson, July 1988.
56. Adair, James B., "The Amazing Soft-Drink Silencer," Eagle, (October 1983), p. 14, 15.
57. Special Weapons, (1988 annual), inside front cover.
58. Special Weapons, p. 2.
59. Steele, David, "The Offensive Handgun," Special Weapons, (1988), p. 68.
60. Steele, p. 69.
61. Steele, p. 70.
62. Soldier of Fortune, (August 1988), p. 1.
63. Soldier of Fortune, p. 1.
64. "Soldier of Fortune Magazine is Sued Over Slaying," New York Times, (February 14, 1988), p. 27.
65. "Magazine is Ordered to Pay \$9.4 Million," The New York Times, (March 4, 1988), p. A12.
66. New Breed, (July/August 1988), p. 5.
67. Haire, Chad A., "Shot Show 1988," New Breed, (July/August 1988), p. 16.
68. Information obtained from the National Coalition to Ban Handguns.
69. J. Bird Manufacturing advertisement, Shotgun News, (July 20, 1988), p. 78.
70. National Vanguard Books advertisement, Shotgun News, (January 20, 1988), p. 84.
71. Survival Systems book catalog, #701, (1988), p. 2. Obtained from Survival Systems, P.O. Box 30309, Phoenix, Arizona, 85046.
72. Survival Systems, p. 2.
73. Survival Systems, p. 12.
74. Survival Systems, p. 12.
75. Survival Systems, p. 19.

76. Paladin Press catalog, Vol. 18, No. 1, p. 24. Obtained from Paladin Press, P.O. Box 1307, Boulder, Colorado, 80306.
77. Paladin Press, p. 20.
78. Paladin Press, p. 23.
79. Paladin Press, p. 26.
80. Paladin Press, p. 34.
81. Paladin Press, p. 14.
82. Desert Publications advertisement, Firepower, (July 1987), p. 99.
83. Interview with Everett Moore, July 1988.
84. The Right Stuff, Phoenix Systems Inc., p. 14. Catalog obtained from Phoenix Systems Inc., P.O. Box 3339, Evergreen, Colorado, 80439.
85. The Right Stuff, p. 15.
86. The Right Stuff, p. 18.
87. The Right Stuff, p. 27.
88. BMF Activator advertising literature. Literature received from BMF Activator, P.O. Box 262364, Houston, Texas, 77207.
89. Orpheus Industries advertising literature. Literature received from Orpheus Industries, P.O. Box 1415, Montrose, Colorado, 81402.
90. Firearms Systems and Design, Inc. advertisement, Shotgun News, (June 1, 1988), p. 97.
91. API Marketing Inc. advertising literature. Literature received from API Marketing Inc., 1600 Monrovia Avenue., Newport Beach, California, 92663.
92. Kephart Publications advertisement, Shotgun News, (June 20, 1988), p. 166.
93. The Anite Co. advertisement, Firepower, (January 1988), p. 91.
94. MWG Company advertisement, Shotgun News, (June 1, 1988), p. 148. Pricing information obtained from MWG Company, Miami, Florida, September, 1988.

95. Mail Order Video advertisement, Firepower, (January 1988), p. 3.
96. Gilbert, Wayne R., Deputy Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation, opening statement before the Subcommittee on Security and Terrorism, Committee on the Judiciary, United States Senate, (October 2, 1985). Obtained from the Center for Defense Information, 1500 Massachusetts Ave., NW, Washington, D.C., 20036.
97. Denton, Jeremiah, U.S. Senator, statement before the Subcommittee on Security and Terrorism, Committee on the Judiciary, United States Senate, (October 2, 1985). Obtained from the Center for Defense Information, 1500 Massachusetts Ave., NW, Washington, D.C., 20036.
98. "Combat Schools Sprout in America's Backwoods," U.S. News & World Report, (October 14, 1985), p. 72.
99. "Combat Schools Sprout in America's Backwoods," p. 73.
100. "ADL Paramilitary Training Statute: A Response to Extremism," ADL Law Report, (Fall, 1986), p. 1. Obtained from the Anti-Defamation League of B'nai B'rith, 823 United Nations Plaza, New York, NY, 10017.
101. "ADL Paramilitary Training Statute: A Response to Extremism," p. 1.
102. Hartnett, Daniel M., Acting Deputy Associate Director, Law Enforcement, Bureau of Alcohol, Tobacco and Firearms, statement before Subcommittee on Security and Terrorism, Committee on the Judiciary, United States Senate, (October 2, 1985). Obtained from Center for Defense Information, 1500 Massachusetts Avenue, NW, Washington, DC, 20036.
103. "ADL Paramilitary Training Statute: A Response to Extremism," p. 3.
104. Press Release, Anti-Defamation League of B'nai B'rith, (October 30, 1986).
105. "ADL Paramilitary Training Statute: A Response to Extremism," p. 4.
106. "ADL Paramilitary Training Statute: A Response to Extremism," p. 7-12. Additional information obtained from ADL, July, 1987.
107. "Paramilitary Training Legislation" fact sheet, National Rifle Association, p. 1. Received from the National Rifle Association Institute for Legislative Action, 1600 Rhode Island Avenue, NW, Washington, D.C., 20036.

108. Brigade Security Forces pamphlet. Literature received from Brigade Security Forces, P.O. Box 1237, Mooresville, North Carolina, 28115.
109. Information obtained from the National Coalition to Ban Handguns.
110. Semi-Auto Arms--The Citizen's Choice, National Rifle Association Institute for Legislative Action, (June 1987), p. 1.
111. Semi-Auto Firearms--The Citizen's Choice, p. 11.
112. Semi-Auto Firearms--The Citizen's Choice, p. 17.
113. "NRA to Fight Machine Gun Ban," Monitor, Volume 13, Number 13, (August 15, 1986), p. 1. The Monitor is a publication of the National Rifle Association's Institute for Legislative Action.
114. "NRA to Fight Machine Gun Ban," p. 3.
115. "NRA to Fight Machine Gun Ban," p. 3.
116. "NRA to Fight Machine Gun Ban," p. 3.
117. "NRA to Fight Machine Gun Ban," p. 1.
118. "Drug Thugs and Rambo Guns," The New York Times, (August 1, 1988), p. A14; "War on Drugs, War on Guns," The New York Times, (August 28, 1988), p. 22.
119. Interview with Citizens Committee for the Right to Keep and Bear Arms Executive Director John Hosford, July 1988. Additional information obtained from staff member Jan Grant, September 1988.
120. Handgun Control Inc. organization brochure, obtained from Handgun Control Inc., 1225 I Street, NW, Suite 1100, 20005. Additional information obtained from HCI Communications Director Barbara Lautman.
121. Interview with National Coalition to Ban Handguns President Michael K. Beard, September, 1988.
122. Interviews with Arnetta Porter, Police Foundation, 1001 22nd Street, NW, Suite 200, 20037, August 1988, September 1988.
123. Interview with Martha Plotkin, Police Executive Research Forum, 2300 M Street, NW, Suite 910, Washington, D.C., 20037, August 1988.

124. Interview with Helen Mansfield, office of California Assemblyman Michael Roos, August 1988.
125. Interview with David Cooney, attorney for the estate of David Bengston, August 1988.
126. "Maryland Court Ruling Could Ban Handguns," The Banner, (1985), p. 1. The Banner is the newsletter of the National Coalition to Ban Handguns.
127. "Guns, Guns, Guns," NBC News documentary, July 5, 1988.
128. "Jackson Talks of Hope, Dreams As He Weaves 'Quilt of Unity,'" Congressional Quarterly, (July 23, 1988), p. 2059.
129. "Public Continues to Favor Stringent Curbs on Handguns," The Gallup Poll, (May 11, 1986).
130. Information obtained from the National Coalition to Ban Handguns.
131. "The Maryland Handgun Roster Law," press release, issued by the Office of the Attorney General, Baltimore, Maryland.
132. Long, Duncan, Assault Pistols, Rifles and Submachine Guns, Citadel Press, Secaucus, (1986), p. 89-98. Additional information obtained from PTK International, Inc., 2814 New Spring Road, Suite 340, P.O. Box 724827, Atlanta, Georgia, 30339.
133. All prices quoted are based on information received from Virginia and California gun stores.
134. Information obtained from Colt Industries, P.O. Box 1868, Hartford, CT, 06101.
135. Long, p. 21-24. Additional inform from firearms product liability attorney D. Michael Hancock, September 1988.
136. Cobray advertisement, Shotgun News, (July 1, 1988), p. 143.
137. Long, p. 21-24.
138. Information obtained from Sturm, Ruger & Company, Southport, Connecticut, 06490.
139. Long, p. 41-43. Additional information obtained from Intratec, 11990 S.W. 128 Street, Miami, Florida, 33186.

140. Intratec advertising brochure. Obtained from Intratec, 11990 S.W. 128 Street, Miami, Florida, 33186.
141. Long, p. 48-51. Additional information obtained from Action Arms, P.O. Box 9573, Philadelphia, Pennsylvania, 19124, August 1988.
142. Action Arms advertisement, Gun World, (April 1988), p. 35.
143. Blackman, Paul, "Mugged by the Media," American Rifleman, (April 1987), p. 34.
144. Information obtained from Bureau of Alcohol, Tobacco and Firearms.
145. Information obtained from the National Coalition to Ban Handguns.
146. Hunting Safety and Conservation Program, National Rifle Association, (1973, revised 1976), p. 19.
147. Information obtained from Bureau of Alcohol, Tobacco and Firearms.
148. Hunter Safety and Conservation Program, p. 20.
149. Information obtained from the National Coalition to Ban Handguns.

BULLET HOSES

SEMIAUTOMATIC ASSAULT WEAPONS



What Are They? What's So Bad About Them?



Violence Policy Center

EXHIBIT E (Klarevas)

The Violence Policy Center (VPC) is a national non-profit educational organization that conducts research and public education on firearms violence and provides information and analysis to policymakers, journalists, advocates, and the general public. The Center examines the role of firearms in America, analyzes trends and patterns in firearms violence, and works to develop policies to reduce gun-related death and injury.

This report was authored by VPC Senior Policy Analyst Tom Diaz and edited by VPC Publications Coordinator Aimée Stenzel.

This study was funded in part with the support of The David Bohnett Foundation, The California Wellness Foundation, The George Gund Foundation, The Joyce Foundation, The John D. and Catherine T. MacArthur Foundation, and The Streisand Foundation. Past studies released by the VPC include:

- *"Officer Down"—Assault Weapons and the War on Law Enforcement* (May 2003)
- *Firearms Production in America 2002 Edition—A Listing of Firearm Manufacturers in America with Production Histories Broken Out by Firearm Type and Caliber* (March 2003)
- *"Just Like Bird Hunting"—The Threat to Civil Aviation from 50 Caliber Sniper Rifles* (January 2003)
- *When Men Murder Women: An Analysis of 2000 Homicide Data* (October 2002)
- *No Deal: The Drop in Federally Licensed Firearms Dealers in America* (September 2002)
- *Sitting Ducks—The Threat to the Chemical and Refinery Industry from 50 Caliber Sniper Rifles* (August 2002)
- *License to Kill IV: More Guns, More Crime* (June 2002)
- *American Roulette: The Untold Story of Murder-Suicide in the United States* (April 2002)
- *The U.S. Gun Industry and Others Unknown—Evidence Debunking the Gun Industry's Claim that Osama bin Laden Got His 50 Caliber Sniper Rifles from the U.S. Afghan-Aid Program* (February 2002)
- *"A .22 for Christmas"—How the Gun Industry Designs and Markets Firearms for Children and Youth* (December 2001)
- *Kids in the Line of Fire: Children, Handguns, and Homicide* (November 2001)
- *Unintended Consequences: Pro-Handgun Experts Prove That Handguns Are a Dangerous Choice For Self-Defense* (November 2001)
- *Voting from the Rooftops: How the Gun Industry Armed Osama bin Laden, Other Foreign and Domestic Terrorists, and Common Criminals with 50 Caliber Sniper Rifles* (October 2001)
- *Shot Full of Holes: Deconstructing John Ashcroft's Second Amendment* (July 2001)
- *Hispanics and Firearms Violence* (May 2001)
- *Where'd They Get Their Guns?—An Analysis of the Firearms Used in High-Profile Shootings, 1963 to 2001* (April 2001)
- *A Deadly Myth: Women, Handguns, and Self-Defense* (January 2001)
- *Handgun Licensing and Registration: What it Can and Cannot Do* (September 2000)
- *Pocket Rockets: The Gun Industry's Sale of Increased Killing Power* (July 2000)
- *Gunland USA: A State-by-State Ranking of Gun Shows, Gun Retailers, Machine Guns, and Gun Manufacturers* (June 2000)
- *Guns For Felons: How the NRA Works to Rearm Criminals* (March 2000)
- *One Shot, One Kill: Civilian Sales of Military Sniper Rifles* (May 1999)
- *Cease Fire: A Comprehensive Strategy to Reduce Firearms Violence* (Revised, October 1997)

Violence Policy Center
1140 19th Street, NW, Suite 600
Washington, DC 20036
202-822-8200 phone
202-822-8205 fax
www.vpc.org web

©May 2003
Violence Policy Center

TEN KEY POINTS ABOUT WHAT ASSAULT WEAPONS ARE AND WHY THEY ARE SO DEADLY

This study documents the following 10 important key points on the pages noted.

1. Semiautomatic assault weapons (like AK and AR-15 assault rifles and UZI and MAC assault pistols) are civilian versions of military assault weapons. There are virtually no significant differences between them. (Page 1)

2. Military assault weapons are “machine guns.” That is, they are capable of fully automatic fire. A machine gun will continue to fire as long as the trigger is held down until the ammunition magazine is empty. (Page 1)

3. Civilian assault weapons are not machine guns. They are semiautomatic weapons. (Since 1986 federal law has banned the sale to civilians of new machine guns.) The trigger of a semiautomatic weapon must be pulled separately for each round fired. It is a mistake to call civilian assault weapons “automatic weapons” or “machine guns.” (Page 1)

4. However, *this is a distinction without a difference in terms of killing power.* Civilian semiautomatic assault weapons incorporate all of the functional design features that make assault weapons so deadly. They are arguably more deadly than military versions, because most experts agree that semiautomatic fire is more accurate—and thus more lethal—than automatic fire. (Pages 1, 5-6, 11-14)

5. The distinctive “look” of assault weapons is not cosmetic. It is the visual result of specific functional design decisions. Military assault weapons were designed and developed for a specific military purpose—*laying down a high volume of fire over a wide killing zone*, also known as “hosing down” an area. (Pages 2-6)

6. Civilian assault weapons keep the specific functional design features that make this deadly spray-firing easy. These functional features also distinguish assault weapons from traditional sporting guns. (Pages 5-10)

7. The most significant assault weapon functional design features are: (1) ability to accept a high-capacity ammunition magazine, (2) a rear pistol or thumb-hole grip, and, (3) a forward grip or barrel shroud. Taken together, these are the design features that make possible the deadly and indiscriminate “spray-firing” for which assault weapons are designed. None of them are features of true hunting or sporting guns. (Pages 5-6)

8. “Spray-firing” from the hip, a widely recognized technique for the use of assault weapons in certain combat situations, has no place in civil society. Although assault weapon advocates claim that “spray-firing” and shooting from the hip with such weapons is never done, numerous sources (including photographs and diagrams)

show how the functional design features of assault weapons are used specifically for this purpose. (Pages 12-14)

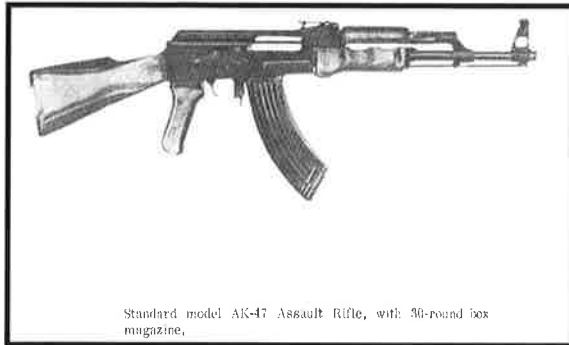
9. Unfortunately, most of the design features listed in the 1994 federal ban—such as bayonet mounts, grenade launchers, threaded barrels, and flash suppressors—have nothing to do with why assault weapons are so deadly. As a result, the gun industry has easily evaded the ban by simply tinkering with these “bells and whistles” while keeping the functional design features listed above. (Page 14)

10. Although the gun lobby today argues that there is no such thing as civilian assault weapons, the gun industry, the National Rifle Association, gun magazines, and others in the gun lobby enthusiastically described these civilian versions as “assault rifles,” “assault pistols,” “assault-type,” and “military assault” weapons to boost civilian assault-weapon sales throughout the 1980s. The industry and its allies only began to use the semantic argument that a “true” assault weapon is a machine gun after civilian assault weapons turned up in inordinate numbers in the hands of drug traffickers, criminal gangs, mass murderers, and other dangerous criminals. (Pages 14-16)

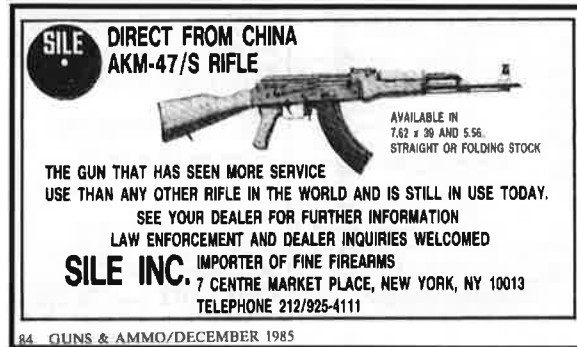
WHAT IS A SEMIAUTOMATIC ASSAULT WEAPON?

Semiautomatic assault weapons are civilian versions of automatic military assault rifles (like the AK-47 and the M-16) and automatic military assault pistols (like the UZI).

Assault Weapons



**Military AK-47
Assault Rifle**



SILE DIRECT FROM CHINA
AKM-47/S RIFLE

AVAILABLE IN
7.62 x 39 AND 5.56.
STRAIGHT OR FOLDING STOCK

THE GUN THAT HAS SEEN MORE SERVICE
USE THAN ANY OTHER RIFLE IN THE WORLD AND IS STILL IN USE TODAY.
SEE YOUR DEALER FOR FURTHER INFORMATION
LAW ENFORCEMENT AND DEALER INQUIRIES WELCOMED

SILE INC. IMPORTER OF FINE FIREARMS
7 CENTRE MARKET PLACE, NEW YORK, NY 10013
TELEPHONE 212/925-4111

84 GUNS & AMMO/DECEMBER 1985

**Civilian AK-47
Assault Rifle**

These guns look the same because they are virtually identical, save for one feature: military assault rifles (like the rifle on the left above) are machine guns. A machine gun fires continuously as long as its trigger is held back—until it runs out of ammunition. Civilian assault rifles (like the gun on the right) are *semi*-automatic weapons. The trigger of a semiautomatic weapon must be pulled back separately for each round fired.

Because federal law has banned the sale of new machine guns to civilians since 1986,^a and heavily regulates sales to civilians of older model machine guns, there is virtually no civilian market for military assault weapons. The gun industry introduced semiautomatic versions of military assault weapons in order to create and exploit new civilian markets for these deadly weapons. The next section explains why civilian semiautomatic assault weapons are no less deadly than military automatic assault weapons. In fact, they are arguably even more deadly.

^a See, 18 U.S. Code, Section 922(o).

WHAT'S SO BAD ABOUT SEMIAUTOMATIC ASSAULT WEAPONS?

Assault weapons did not “just happen.” They were developed to meet specific combat needs. All assault weapons—military and civilian alike—incorporate specific features that were designed to provide a specific military combat function. That military function is *laying down a high volume of fire over a wide killing zone*, also known as “hosing down” an area. Civilian assault weapons keep the specific design features that make this deadly spray-firing easy. These features also distinguish assault weapons from traditional sporting firearms.

Assault Weapon Design Follows Specific Combat Function

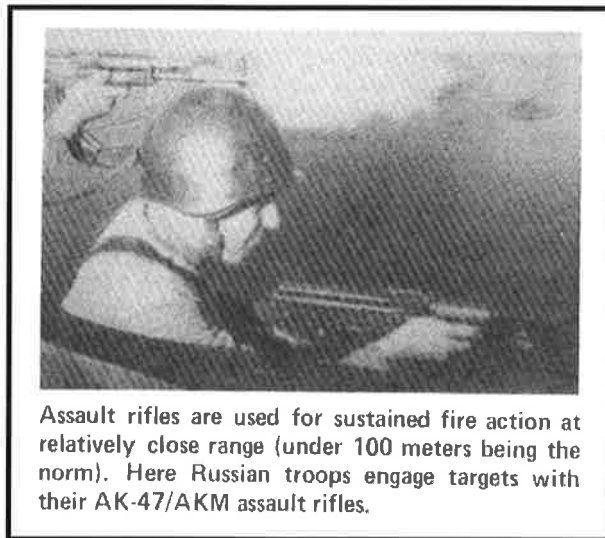


Illustration and caption from Chuck Taylor, *The Fighting Rifle: A Complete Study of the Rifle in Combat* (Boulder, CO: Paladin Press, 1984): 166.

The distinctive “look” of assault weapons is not merely “cosmetic,” as the gun lobby often argues—the assault weapon’s appearance is the result of the design of the gun following its function. A brief summary of how assault weapons came into being makes clear the reason for, and the nature of, their distinctive design features.

The problem of trench warfare. The roots of military assault weapons lie in the trench fighting of the First World War. The standard infantry weapon of that conflict was the long-range battle rifle. “Infantrymen in most armies were equipped with high-powered rifles: long, unwieldy, but accurate to ranges of 1,000 m (3,280 ft) or more. But a long weapon was a definite handicap in the close-quarter fighting of the trenches, and long-range capability was wasted when combat usually took place at ranges of tens of metres or less.”¹



Right—Troops in a World War I trench, fixing bayonets on battle rifles. Below—Springfield Model 1903, the U.S. Army’s main battle rifle in World War I.



Submachine guns—the intermediate step. When armies bogged down in the World War I trenches, weapons designers looked for ways to break the bloody stalemate. Among them was the submachine gun, designed to be a “compact, fast-firing, short-range weapon” for use in the trenches and by highly mobile storm troops in new tactical formations.² According to the *Illustrated Book of Guns*, “A submachine gun (SMG) is a close-range, automatic weapon, firing pistol cartridges (e.g., 9mm Parabellum), and is compact, easy to carry, and light enough to be fired from either the shoulder or the hip.”³

Among some famous American submachine guns are the more finely machined Thompson, or “Tommy Gun,” shown on the right in the hands of British Prime Minister Winston Churchill, and its successor, the mass-produced M3 “Grease Gun,” shown below. Both are chambered in .45ACP, a pistol cartridge.



The final step—the first assault rifle. The last step in the evolution of the military assault rifle came during the Second World War. It grew out of the German military's pre-war interest in "obtaining a relatively high-power intermediate or mid-range cartridge *and corresponding weapon* for infantry application."⁴ (Emphasis added). On the one hand, the submachine gun was useful in close-range fighting, but the pistol cartridge it fired (typically 9mm) lacked power and range. On the other, German military thinkers realized that the battle rifle was too much gun for modern combat scenarios: "Since most infantry action took place at ranges under 400 meters, the long-range potential of the standard cartridge and service rifle were actually wasted."⁵ There were also logistical problems in supplying armies in the field with different kinds of rounds of ammunition: the larger rifle cartridges for the battle rifle and the smaller pistol cartridges for the submachine guns.⁶



German MP-40 9mm submachine at left, and Mauser Karabiner 98k battle rifle below. Both guns shown in the field with French Nazi soldiers at right.



The solution to these logistical and firepower problems practically suggested itself:

Logically, it was inescapable that sooner or later someone would consider a compromise between the long range, powerful, rifle and the rapid fire, but short range, submachine gun. During their Operation Barbarossa (Russian) campaign and elsewhere, the Germans were continually reminded of the ever-increasing need for a rapid fire arm that was small enough to be convenient to hand carry, but at the same time possessed sufficient range and power to be adequate out to about 200 meters.⁷

The result of German research and development was that very compromise. It came in the form of the STG (*Sturmgewehr*) ("storm gun") 44, the "father of all assault rifles....After the war it was examined and dissected by almost every major gunmaking nation and led, in one way and another, to the present-day 5.56mm assault rifles."⁸

THE "FATHER OF ALL ASSAULT RIFLES"



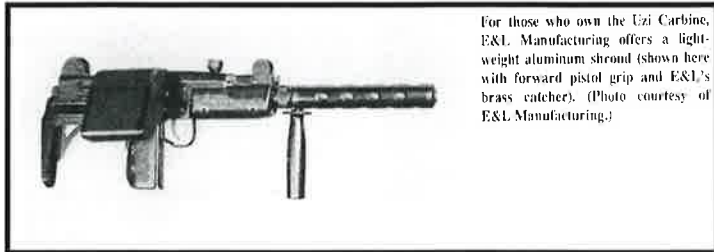
Above, the Nazi army's Sturmgewehr (STG) 44, the first assault rifle.
Below, the STG 44 in combat action.

Deadly designs. One thing leaps out from these pictures: the remarkable similarity of the first assault rifle to the assault rifles currently flooding America's streets. This family resemblance is not a coincidence. From the STG-44 "storm gun" to the Bushmaster XM-15, assault weapons have incorporated into their design *specific* features that enable shooters to spray ("hose down") a large number of bullets over a broad killing zone, without having to aim at each individual target. These features not only give assault weapons a distinctive appearance, they make it easy to simply point the gun while rapidly pulling the trigger—including firing from the hip, a procedure seldom used in hunting anything but human beings. The most important of these design features are:



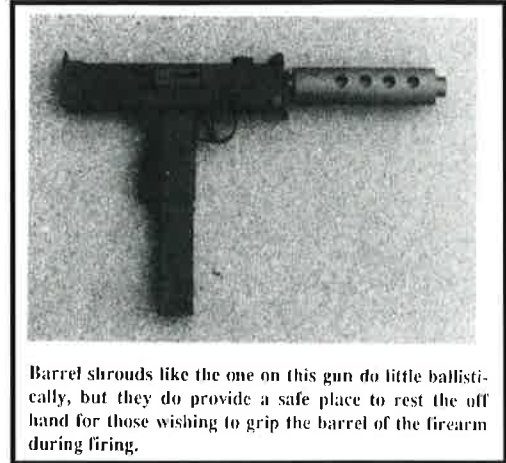
- o **"High-capacity," detachable ammunition magazines** (often called "clips") that hold as many as 75 rounds of ammunition. "This allows the high volume of fire critical to the 'storm gun' concept."⁹
- o **A rear pistol grip** (handle), including so-called "thumb-hole stocks" and magazines that function like pistol grips.
- o **A forward grip or barrel shroud.** Forward grips (located under the barrel or the forward stock) "give a shooter greater control over a weapon during recoil."¹⁰ Forward grips and barrel shrouds also make it possible to hold the gun with the non-trigger hand, even through the barrel gets extremely hot from firing multiple rounds. In the case of assault pistols

(like the UZI, MAC, and Intratec TEC series) the forward grip often appears as an ammunition magazine or a barrel shroud, a vented tube surrounding the gun barrel.



For those who own the Uzi Carbine, E&L Manufacturing offers a light-weight aluminum shroud (shown here with forward pistol grip and E&L's brass catcher). (Photo courtesy of E&L Manufacturing.)

Barrel shrouds make it possible to hold a hot barrel during firing (right). Forward pistol grips help control recoil (above). Images and captions from Duncan Long, *The Terrifying Three*.¹¹

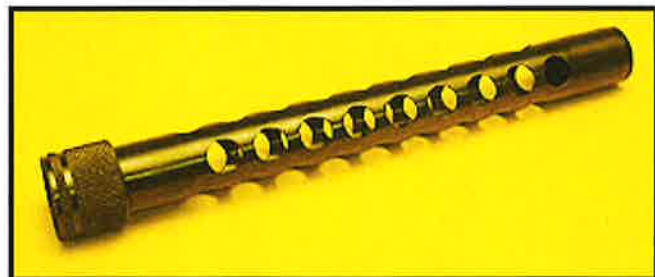


Barrel shrouds like the one on this gun do little ballistically, but they do provide a safe place to rest the off hand for those wishing to grip the barrel of the firearm during firing.



Military assault rifles, like this Heckler & Koch G41 invariably accept a high-capacity magazine ("clip") and have some form of pistol grip and fore-end grip.

Barrel shrouds, like the one on the right sold by Bushmaster Firearms for use on the UZI, are "ventilated all around for maximum heat dissipation."



These design features create the ability to quickly lay down a high volume of fire, making semiautomatic assault weapons a particularly dangerous addition to the civilian gun market. They explain why assault weapons are favored by terrorists, mass killers, and violent criminals, and they distinguish such weapons from true hunting and target guns.

MODERN DESCENDANTS OF THE STG-44 ON AMERICA'S STREETS

Most of the assault weapons sold on America's civilian market are semiautomatic descendants of the STG-44. Here are a few of the more popular and notorious.

Kalashnikov AK-47 and its variants. The Soviet Army's AK-47 was derived from the STG-44 shortly after the Second World War, boosted by material and personnel that fell into Soviet hands when the Red Army overran German research and engineering facilities.¹² The AK-47 (in many variants, like the AKM) has become, since the 1940s, the most widely-distributed rifle in the world.¹³ According to *The Gun Digest Book of Assault Weapons*:



“The AKM was the revolutionary weapon of the 1960s and ‘70s, used by everyone from the Viet Cong to the Palestine Liberation fighters. Its comparatively short length and light weight made war more available to Third World women and children, probably not an advance for civilization.”¹⁴

Above: AK-47, foreground, AKM, upper right background.

China exported few guns to the United States before the 1980s. But, beginning in 1987, Chinese rifle imports—mostly semi-automatic versions of the AK-47—surged. The flood of Chinese rifles reached 64 percent of all rifles imported into the United States in 1993 and was only cut off by the administration of former President Bill Clinton. (See table at right.)¹⁵

China accounted for forty-two percent of all rifles imported into the U.S. civilian market between 1987 and 1994, the year in which President Clinton finally blocked the Chinese gun dumping (see Table 8).

Table 8
Rifle Imports from China to the United States, 1987-1994

	<i>Total Rifles Imported</i>	<i>Chinese Rifles Imported</i>	<i>Percent Chinese</i>
1987	452,059	100,897	22%
1988	484,976	182,935	38%
1989	350,012	141,382	40%
1990	273,102	31,370	11%
1991	339,966	115,902	34%
1992	420,085	164,271	39%
1993	764,498	490,399	64%
1994	698,907	344,648	49%
Total	3,783,605	1,571,804	42%

Source: U.S. Census Bureau, Foreign Trade Division

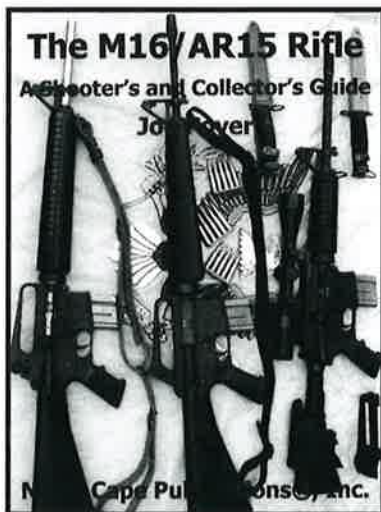
AR-15 Variant of the M-16. The U.S. Army's decision in the 1960s to replace its M-14 battle rifle with the M-16 assault rifle was based on reasoning similar to the German army's and highly revealing of the function of assault weapons. After studying over three million casualty reports from World Wars I and II, and data from the Korean War, the Army's Operations Research Office (ORO) found that, "in the overall picture, aimed fire did not seem to have any more important role in creating casualties than randomly fired shots. Marksmanship was not as important as volume. Fire was seldom effectively used beyond 300 meters due to terrain...and [ORO] discovered that most kills occur at 100 meters or less. From this data, ORO concluded that what the Army needed was a low recoil weapon firing a number of small projectiles....The [Armalite] AR-15 was chosen as the best small caliber weapon and it was adopted as the M16."¹⁶

The U.S. Army adopted the M-16 assault rifle, right, in the 1960s. It saw extensive service during the Vietnam War.

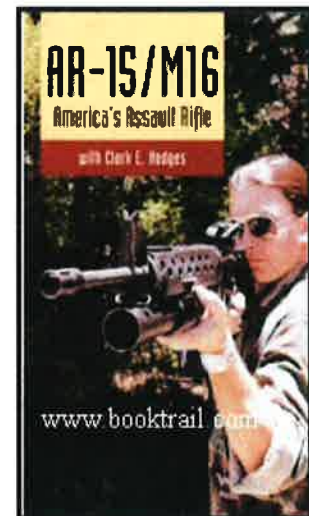


Another expert's explanation of the Army's reasoning sheds light on one of the principal dangers of assault weapons on civilian streets—"spray and pray" firing:

The studies showed that...in spite of the huge amounts of money spent by the military services in training combat infantrymen to be marksmen, few were capable of firing effectively beyond ranges of 200 to 300 meters in the heat of battle. "Spray and pray" would come to be the practice on the future battlefields of Vietnam.¹⁷



Books like these two illustrate that there is virtually no difference between the military M-16 and the civilian AR-15, the latter being only slightly modified for sale in the civilian market. The titles themselves show the popular equivalence.



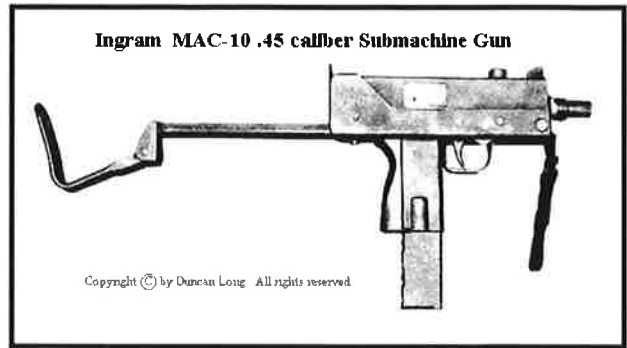
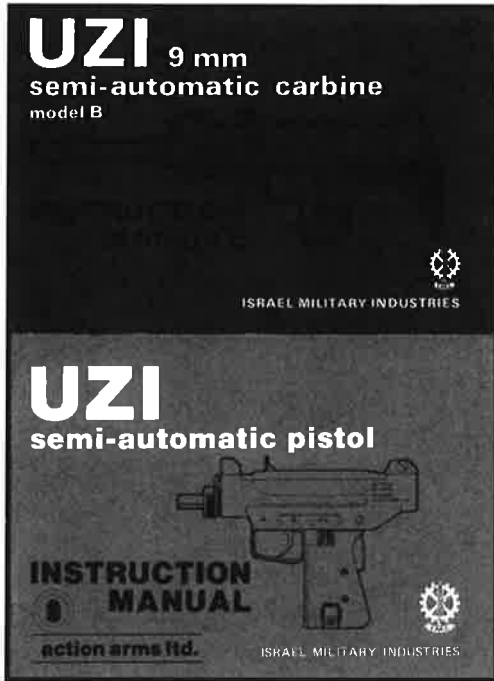
The gun industry was quick to begin churning out civilian versions of the M-16, labeling the semiautomatic models the “AR-15,” not coincidentally the same name as the prototype version of the military assault rifle.



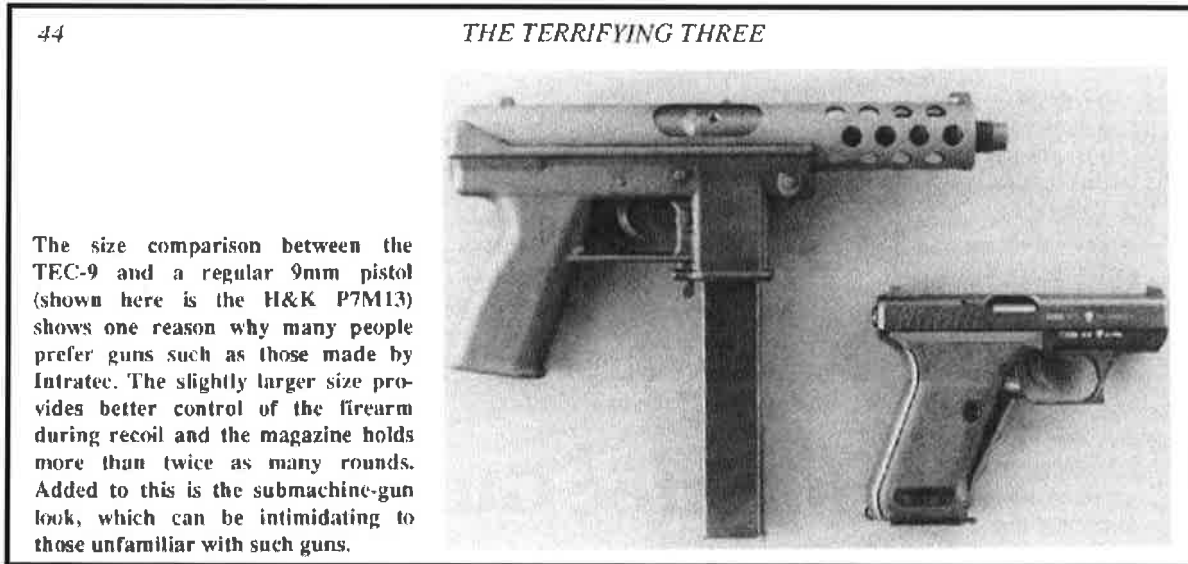
Bushmaster’s version of the AR-15, left, achieved new heights of notoriety in 2002 when it was revealed that one model was the weapon used by the infamous Washington, DC-area snipers.

Assault Pistols—Uzi, Ingram, Intratec, and More. A particularly deadly variant in the gun industry’s marketing program has been the sale of civilian assault pistols, which are for the most part simply semiautomatic versions of submachine guns. Firearms expert Duncan Long explained the marketing basis of this trend in his book *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families*:

As the militaries of the world increasingly rely on assault rifles to fill the submachine gun role, making money on a new submachine gun design becomes harder and harder. Consequently, a number of companies have tried to capture the police and civilian markets....Citizens purchasing firearms for everything from plinking to self-defense have provided a lucrative market, especially in the United States. Those weapons produced for the civilian market are generally semiauto versions of the automatic weapons, often modified slightly to conform to U.S. firearms laws.¹⁸



Lagging sales to the military spurred the gun industry to market to civilians semiautomatic versions of assault pistols such as the UZI and Ingram MAC series. Assault pistols like these quickly became the preferred weapon for criminal gangs, fringe groups like militias, and mass murderers.

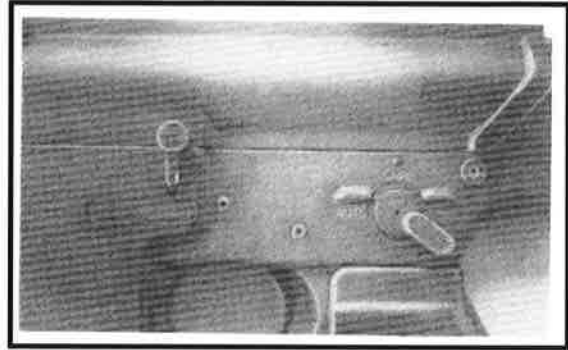


Firearms expert Duncan Long has succinctly summarized the perverse attractions of semiautomatic assault pistols like the Intratec TEC-9 shown above. (Image and caption from Duncan Long, *The Terrifying Three*.)¹⁹

THE GUN INDUSTRY'S LIES

The gun industry—aided by its apologists in the gun lobby, the NRA, and the gun press—has tried to divert attention from the inevitable consequences of its cynical marketing of these killing machines, and thwart regulation. This has been done by inventing what can only be fairly described as a series of lies and deceptions about assault weapons and their effects. Some of the more prominent among them are discussed below.

Is “automatic fire” an essential feature of a “real” assault weapon? The answer is, “absolutely not.” But that hasn’t kept the gun industry from using this line of argument to pretend that civilian assault weapons simply don’t exist. The red herring of the automatic fire “issue” was raised by the gun lobby only after civilian assault weapons were widely criticized. This criticism came after mass murderers and drug traffickers began to “hose down” America’s streets and schoolyards with civilian assault weapons.



Military assault weapons, like the M-16 shown above, have a “selective fire” switch to change the mode of fire from semiautomatic to automatic (machine gun).

This argument is entirely semantic. By limiting the “definition” of assault weapon to military machine guns, the gun industry and its friends hope to define away the problem. But, fully automatic fire has little to do with the killing power of assault weapons. As the leading pro-assault weapons expert Duncan Long wrote in his 1986 publication, *Assault Pistols, Rifles and Submachine Guns*:

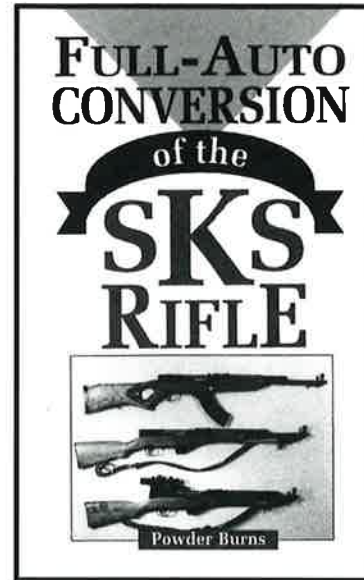
The next problem arises if you make a semiauto-only model of one of these selective-fire rifles. According to the purists, an assault rifle has to be selective fire. Yet, if you think about it, it’s a little hard to accept the idea that firearms with extended magazines, pistol grip stock, etc. cease to be assault rifles by changing a bit of metal.²⁰

Long’s point is well taken because, in fact, military and civilian experts agree that semiautomatic fire is actually *more*—not less—likely to hit the target than is automatic fire, and is thus more deadly.²¹ In fact, expert Long wrote about the semiautomatic UZI in another book, “One plus of the semiauto version is that it has a greater potential accuracy....”²² In any case, a person of moderate skill can fire a semiautomatic assault weapon at an extremely fast rate of fire.²³

And even if automatic fire were more deadly, many semiautomatic assault weapons not only can be converted to automatic fire with home tools and modest skill, but readily available books and videos walk the would-be converter through the process.

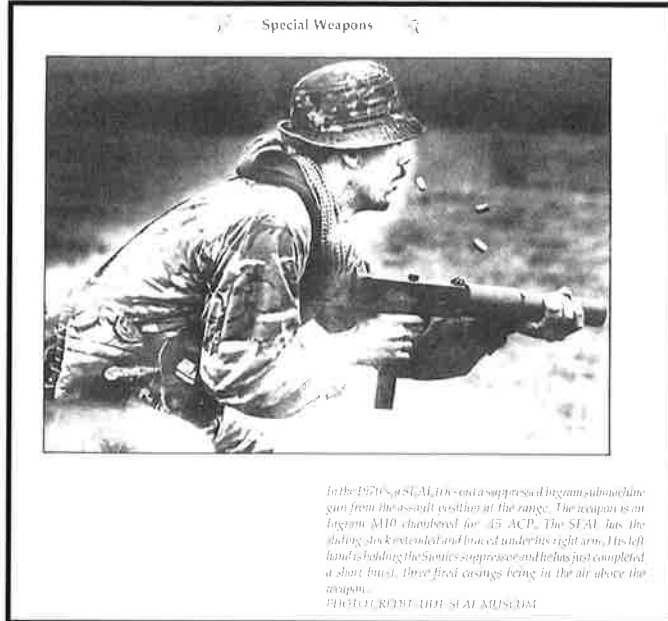


Easily obtained videos and books like these show how to convert semiautomatic assault rifles to fully automatic machine guns (even though semiautomatic fire is more accurate).



Do assault weapons really encourage “spray firing”? Gun industry apologists also disparage the use of such terms as “spray firing” and “shooting from the hip” to describe the deadly capabilities of assault weapons. But, as was explained earlier, “spray and pray” was exactly the point of developing assault weapons. And the following illustrations show graphically how specific assault weapons features allow a “point-and-shoot” grip and help control recoil so the shooter can “hose down” a wide area with a lethal “spray” of bullets.

“Pray and Spray” Hip-Firing



130. Firing with the stock pressed to the body is conducted without halting. Press the stock to the right side with the right arm, with the butt of the stock in the armpit or against the front part of the upper arm (Figure 73). If the stock is folded, press the rifle's receiver and pistol grip to the body with the right hand (Figure 56). Hold the rifle with the left hand at the fore end. Point the rifle at the target and, continuing movement, commence firing.

Figure 73. Firing on the move:

a - with stock pressed to side (armpit) b - with stock resting against upper arm

131. When firing on the move, reload the rifle without stopping movement.



Deliberate, aimed fire from the shoulder may be more accurate than the kind of “pray

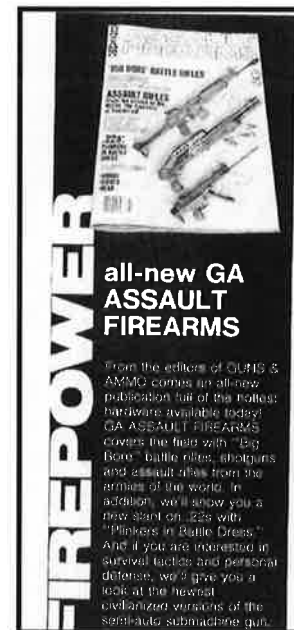
and spray” hip-firing illustrated on the prior page. But the mass murderers, criminal gangs, drug traffickers, and other violent criminals who are drawn to assault weapons are not after marksmanship medals. They want to kill or maim as many people as possible in as short a time as possible—the exact job for which the semiautomatic assault weapon was designed.

But what about harmless bayonet mounts? Unfortunately, the 1994 federal assault weapons ban attempted to define assault weapons on the basis of parts usually associated with military weapons, such as grenade launchers, bayonet mounts, and threaded barrels for adding silencers and flash suppressors (to reduce flash from the weapon’s muzzle at night). The problem is that these features have virtually nothing to do with the functional design of the assault weapon. As a result, gun manufacturers have simply eliminated these “bells and whistles” from their civilian assault weapon designs, while keeping the lethal design factors—high-capacity magazines and pistol grips—that make assault weapons so deadly. These cosmetic changes meet the letter of the federal law, but accomplish little else.

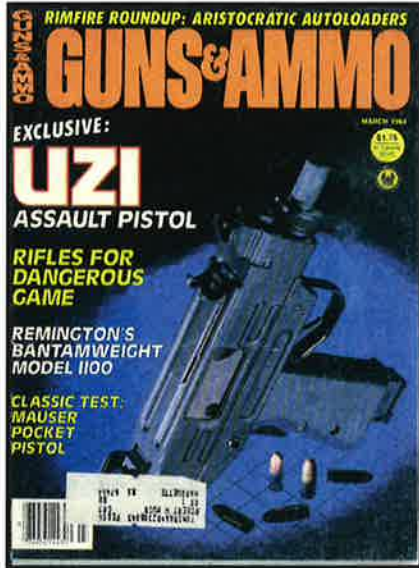
Don’t gun experts say there is no such thing as a civilian “assault gun?” The NRA, the gun industry, the gun press, and other pro-gun “experts” today claim that there is no such thing as a civilian “assault weapon.” But before the guns came under fire, these same experts enthusiastically described exactly these civilian versions as “assault rifles,” “assault pistols,” and “military assault” weapons.

For example, in 1982, *Guns & Ammo* published a book titled *Assault Rifles*, advertising “complete data on the best semi-automatics.”²⁴ In 1984, *Guns & Ammo* advertised a similar publication, now titled *Assault Firearms* (see ad on right), “full of the hottest hardware available today....covers the field with...assault rifles from the armies of the world....a new slant on .22s with ‘Plinkers in Battle Dress.’ And, if you are interested in survival tactics and personal defense, we’ll give you a look at the newest civilianized versions of the semi-auto submachine gun.”²⁵

In 1988, *Guns & Ammo* handgun expert Jan Libourel defined an “assault pistol” simply as, “A high-capacity semi-automatic firearm styled like a submachine gun but having a pistol-length barrel and lacking a buttstock.”²⁶ This definition handily fit guns like the UZI and Intratec TEC-9 that were regularly advertised on the pages of *Guns & Ammo* during the 1980s as “assault pistols.” A 1989 ad in *Guns & Ammo* for the Intratec TEC-9 (a precursor to the one used in the 1999 Columbine high school shootings) flatly declared that “the TEC-9 series clearly stands out among high capacity 9mm assault-type pistols.”²⁷



Guns & Ammo, the leading gun magazine, regularly called civilian semiautomatic assault weapons “assault firearms,” “assault rifles,” and “assault pistols” until a series of tragic shootings caused the industry to deny there was such a thing as a civilian assault weapon.



Higher TEC.

When it comes to weight and price of an ACP, the TEC-9 series truly stands out among high-capacity 9mm assault type pistols.

Over 100 million they deliver more power performance, and a total of 100 million you get on the market.

TEC-9's are built tough for rugged outdoor use. And they're built to work with an ergonomically designed grip and frame. So you can fire more shots than a kid for well defined on its target. Simple, one-step disassembly for easy cleaning makes them a breeze to use.

In Standard or Mini version, Intratec will supply the TEC-9's.

After a rugged, reliable, affordable technology. The TEC-9. See the TEC-9 show at your dealer today.

See about our new TEC-22 semiauto.

INTRATEC
 12095 N.W. 17th St.
 Miami, Florida 33160

When you're determined to survive, you leave nothing to chance.

HK

In a world of compromise, some men don't.

Gun magazines also specifically praised the spray-fire features of civilian assault weapons. For example, a 1989 *Guns & Ammo* review of the “Partisan Avenger .45 Assault Pistol” (right) noted that when the gun “is fired rapidly from the hip, its swivelling front grip makes for easy and comfortable control of the recoil” and that the “forward pistol grip extension of this powerful assault pistol not only helps point it instinctively at the target but goes a long way to controlling the effects of recoil....”²⁸ *Guns & Ammo* found hip-shooting “surprisingly easy” with the HK 94 9mm Carbine.²⁹ A 1990 review in the NRA’s *American Rifleman* of the Sites Spectre HC Pistol stated: “A gun like the Spectre is primarily intended for hip-firing....”³⁰ The same magazine’s 1993 review of the Steyr Mannlicher SPP Pistol reported: “Where the SPP really shines is in firing from the hip.”³¹ A cottage industry of accessory suppliers also sprang up, all of which targeted ads soliciting owners of civilian “assault weapons.”³²

When the Partisan Avenger is fired rapidly from the hip, its swivelling front grip makes for easy and comfortable control of the recoil generated by the powerful .45 ACP.

The Partisan Avenger has two forward grip extensions. The standard one (top) just screws on while the pistol grip version (bottom) requires an Allen wrench to set it at the desired angle.

The gun industry itself deliberately used the military character of semiautomatic “assault weapons” and the lethality-enhancing utility of their distinctive characteristics as selling points. The German company Heckler & Koch, for example, published ads calling their civilian guns “assault rifles” and stressing their military lineage. “The HK 91 Semi-Automatic Assault Rifle from Heckler & Koch...was derived directly from the G3,” a German army weapon, said one full page ad (right).³³ Another described the HK 94 Carbine as “a direct offspring of HK’s renowned family of MP5 submachine guns.”³⁴ An Intratec ad said the company’s TEC-9 “clearly stands out among high capacity assault-type pistols.”³⁵ Magnum Research advertised that the Galil rifle system to which it had import rights “outperformed every other assault rifle.”³⁶

Early gun magazine reviews of assault guns also specifically noted their limited sporting value. For example, the NRA’s *American Rifleman* reviewed the Calico M-100 rifle in 1987 and concluded, “The M-100 is certainly not a competition gun, hardly a hunting gun, and is difficult to visualize as a personal defense gun.”³⁷ Similarly, a 1983 *Guns & Ammo* review of the Heckler & Koch HK 94 rifle reported that “you certainly aren’t going to enter any serious, formal matches with it...”³⁸

At the same time, the gun industry has actively promoted the intimidating looks of assault weapons to increase their sales. A 1989 *Guns & Ammo* review of the A.A. Arms AP9 praised the appeal of the gun’s “wicked looks” to teenagers, noting “it is one mean-looking dude, considered cool and Ramboish by the teenage crowd....Take a look at one. And let your teen-age son tag along. Ask him what *he* thinks.”³⁹ (Emphasis in original). *Guns & Ammo* expert Garry James noted in his review of Colt’s 9mm AR-15 rifle that “the intimidation factor of a black, martial-looking carbine pointing in one’s direction cannot be underestimated.”⁴⁰ Howard French, of the same magazine, said of the HK 94 9mm Para Carbine that “you would not get much static from an intruder eyeballing its rather lethal appearance.”⁴¹ C.A. Inc. advertisements for the Mark 45 and Mark 9 “Tommy-Gun” style carbines explicitly made the point that a “show of force can be stopping power worth having”⁴²

SUMMING UP

The plain truth is that semiautomatic assault weapons look bad because they are bad. They were designed and developed to meet a specific military goal, which was killing and wounding as many people as possible at relatively short range as quickly as possible, without the need for carefully aimed fire. In short, they are ideal weapons for war, mass killers, drug gangs, and other violent criminals.



TEC-DC9 in use, surveillance tape, Columbine High School.

Endnotes

1. Chris Bishop (ed.), *Guns in Combat* (Edison, N.J.: Chartwell Books, 1998): 37.
2. Ian V. Hogg, *Submachine Guns* (Pennsylvania: Stackpole Books, 2001): 7.
3. David Miller (ed.), *The Illustrated Book of Guns* (London: Salamander Books Ltd., 2000): 232.
4. Peter R. Senich, *The German Assault Rifle, 1935-1945* (Boulder, CO: Paladin Press, 1987): 1.
5. Peter R. Senich, *The German Assault Rifle, 1935-1945* (Boulder, CO: Paladin Press, 1987): 1.
6. Chuck Taylor, *The Fighting Rifle: A Complete Study of the Rifle in Combat* (Boulder, CO: Paladin Press, 1984), p. 2.
7. Chuck Taylor, *The Fighting Rifle: A Complete Study of the Rifle in Combat* (Boulder, CO: Paladin Press, 1984): 2.
8. Ian Hogg, *Jane's Guns Recognition Guide* (Glasgow: Harper Collins Publishers, 2000): 302.
9. Chuck Taylor, *The Fighting Rifle: A Complete Study of the Rifle in Combat* (Boulder, CO: Paladin Press, 1984): 5.
10. Duncan Long, *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families* (Boulder, CO: Paladin Press, 1989): 104.
11. Duncan Long, *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families* (Boulder, CO: Paladin Press, 1989): 97.
12. Chuck Taylor, *The Fighting Rifle: A Complete Study of the Rifle in Combat* (Boulder, CO: Paladin Press, 1984): 4.
13. Chris Bishop (ed.), *Guns in Combat* (Edison, N.J.: Chartwell Books, 1998): 72.
14. Jack Lewis and David E. Steele, *The Gun Digest Book of Assault Weapons*, 5th ed. (Iola, WI: Krause Publications, 2000): 75.
15. Tom Diaz, *Making a Killing: The Business of Guns in America* (New York: The New Press, 1999): 73.

16. "History and Evolution of the M-16," *West Point Parents Club of Georgia Newsletter* 13 (March 1999): 8.
17. Joe Poyer, *The M16/AR15 Rifle: A Shooter's and Collector's Guide* (Tustin, CA: North Cape Publications, 2000): 13.
18. Duncan Long, *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families* (Boulder, CO: Paladin Press, 1989): 3-4.
19. Duncan Long, *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families* (Boulder, CO: Paladin Press, 1989): 44.
20. Duncan Long, *Assault Pistols, Rifles and Submachine Guns* (Boulder, CO: Paladin Press, 1986): 1.
21. See, "How Effective is Automatic Fire?," *American Rifleman*, May 1980, 30.
22. Duncan Long, *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families* (Boulder, CO: Paladin Press, 1989): 11.
23. See, e.g., "Calico M-100 rifle," *American Rifleman*, January 1987, 60, 61 ("the full 100 rounds were sent downrange in 14 seconds by one flicker-fingered tester").
24. Advertisement, *Guns & Ammo*, July 1982, 20.
25. Advertisement, *Guns & Ammo*, July 1984, 16.
26. "Handgunner's Glossary," *Guns & Ammo*, August 1988, 42.
27. Advertisement, *Guns & Ammo*, January 1989, 77.
28. "Partisan Avenger .45 Assault Pistol," *Guns & Ammo Handgun Annual*, 1989, 26-30.
29. "H&K's 9mm Para Carbine," *Guns & Ammo*, November 1983, 44.
30. "Sites Spectre HC Pistol," *American Rifleman*, December 1990, 58.
31. "Steyr Mannlicher SPP Pistol," *American Rifleman*, August 1993, 70, 72; see also, "Colt's 9mm AR-15," *Guns & Ammo*, July 1985, 35, 76 ("fired from the hip....about as natural a pointer as you can get.")
32. See, e.g., Assault Systems advertisements in *Guns & Ammo*, July 1981, 90 ("assault rifle case"), 92 ("lightweight assault bipod"); *Guns & Ammo*, November 1983, 101 ("assault rifle cases" and "padded Assault Rifle sling"); Beeman advertisement in *Guns & Ammo*, December 1982, 14 ("Beeman Short Scopes: New

for Assault Rifles to Airguns...Use on assault rifles...."); Ventech Inc. advertisement for "Assault Weapon Accessories" in *Guns & Ammo*, February 1991, 96 ("Mini-14...10/22...AR-7").

33. Heckler & Koch advertisement in *Guns & Ammo*, July 1984, 9.
34. Heckler & Koch advertisement in *Guns & Ammo*, June 1984, back cover.
35. Intratec advertisement, *Guns & Ammo*, January 1989, 77.
36. Magnum Research advertisement, *Guns & Ammo*, November 1982, 59. See also, e.g., advertisement by Paragon S&S Inc. for AR 10, *Guns & Ammo*, July 1981, 90 ("Used world wide by military and LAW ENFORCEMENT officers. This famous assault rifle is now available in a semi-auto form!")
37. "Calico M-100 rifle," *American Rifleman*, January 1987, 60, 61.
38. "H&K's 9mm Para Carbine," *Guns & Ammo*, November 1983, 44.
39. "A.A. Arms AP9 Assault Pistol," *Guns & Ammo Handgun Annual*, 1989, 48, 51.
40. "Colt's 9mm AR-15," *Guns & Ammo*, July 1985, 35, 76.
41. "H&K's 9 mm Para Carbine," *Guns & Ammo*, November 1983, 42.
42. CA Inc. advertisement, *Guns & Ammo*, March 1981, 92.

About the Violence Policy Center

The Violence Policy Center (VPC) is a national nonprofit educational organization working to reduce death and injury from firearms. As America's premier think tank on gun policy, the VPC studies current firearms issues and provides information to policymakers, journalists, public health professionals, and grassroots activists.

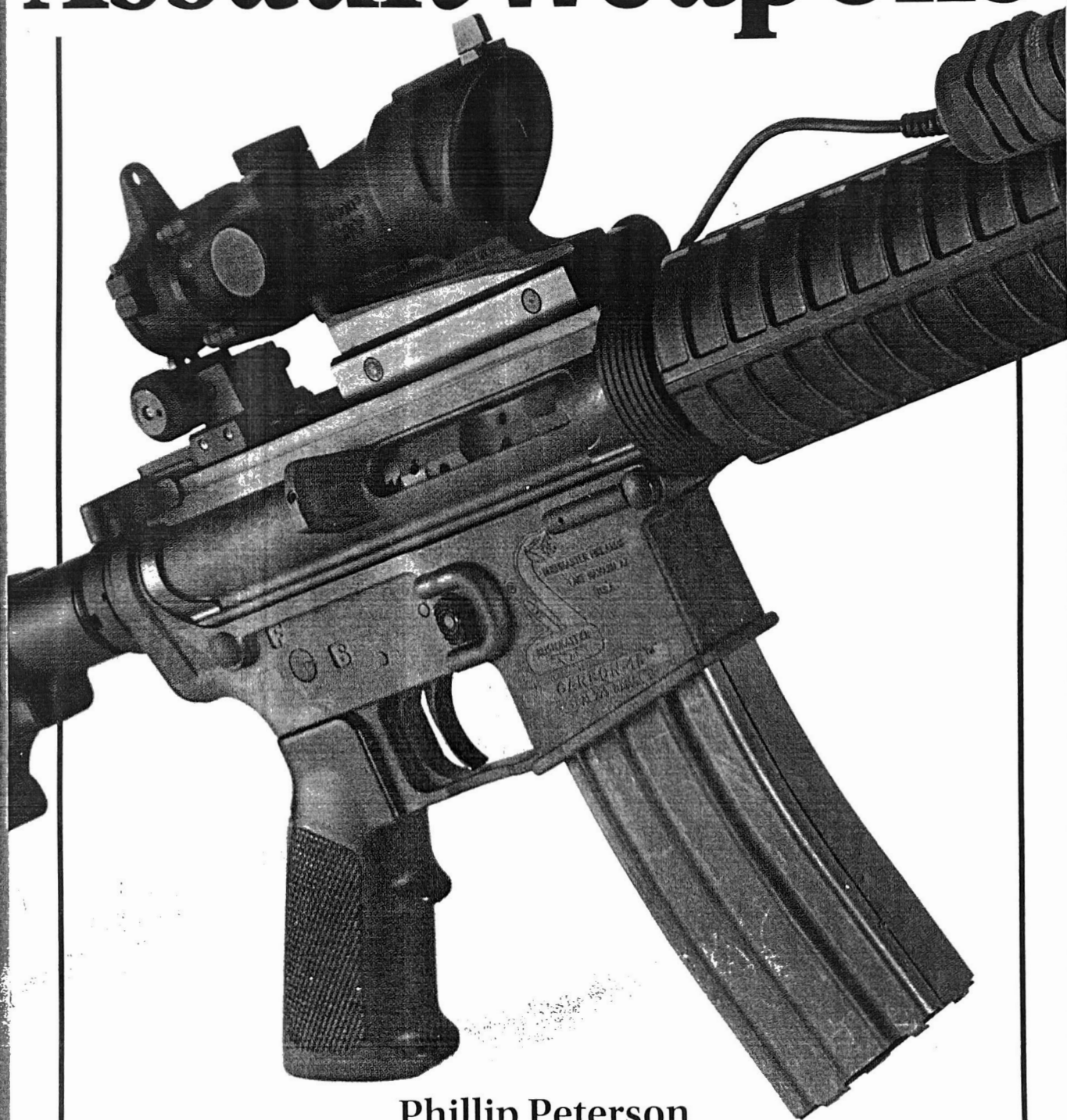
The virtually unrestricted distribution of firearms is more than a crime problem, it is a national health crisis. Unlike every other consumer product, firearms are exempt from federal health and safety laws. Guns—especially handguns and assault weapons—are inherently dangerous products, and the failure to regulate them like all other products costs thousands of lives and billions of dollars every year. By conducting research on key issues in firearms policy, the VPC counters the gun lobby's distortions and brings hard facts to the debate over firearms death and injury.



Violence Policy Center www.vpc.org

GUN DIGEST®

Buyer's Guide to **Assault Weapons**



Phillip Peterson
EXHIBIT F (Klarevas)

© 2008 By Krause Publications
Published by



Gun Digest® Books

An imprint of F+W Publications

700 East State Street • Iola, WI 54990-0001

715-445-2214 • 888-457-2873

www.gundigestbooks.com

Our toll-free number to place an order or obtain
a free catalog is (800) 258-0929.

All rights reserved. No portion of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission in writing from the publisher, except by a reviewer who may quote brief passages in a critical article or review to be printed in a magazine or newspaper, or electronically transmitted on radio, television, or the Internet.

Library of Congress Control Number: 2008925112

ISBN-13: 978-0-89689-680-2

ISBN-10: 0-89689-680-3

Designed by Marilyn McGrane

Edited by Dan Shideler

Printed in the United States of America

Introduction: What's in a Name?

Assault Weapon.

Those words, on the cover of this book, are probably what drew you to pick it up. "Assault weapon" is a term that causes arguments within the pro-gun community. Any use of the terms "assault weapon" or "assault rifle" by media or politicians is attacked by some pro-gun writers, organizations and many firearm owners. Long wordy debates take place on internet message boards arguing the definitions and usage of terms.

Why is that?

The main reason seems to be that the term has gained use by the anti-gun movement and media. Whenever a crime is committed with a semi-automatic military pattern firearm, the mainstream media will quickly jump in with headlines like "assault weapon used in killing spree" or "drug sweep nets assault weapons." The only time many in the non-gun owning public are exposed to this class of firearms is through negative media exposure.

If you use the historically applied terminology, an assault weapon must be capable of full-automatic fire, i.e., a machine gun. The term assault rifle had its beginning with the Germans during WWII and was applied to a new class of firearm: the "SturmGewehr," or storm rifle, properly known as the MP-44.

This is generally considered to be the first true assault rifle. It was a select-fire rifle that used an intermediate-sized rifle cartridge called the 8x33mm Kurz (short).

The intermediate cartridge concept helps define an assault rifle in military circles. The intermediate cartridge is smaller than the rifle cartridges used in belt-fed machine guns and larger than the pistol cartridges used in submachine guns. Intermediate cartridges are what many semi-automatic assault weapons chamber. These include the 5.56mm (.223), 7.62x51mm (.308), 7.62x39mm, and 5.54x39mm.

v
s
-
-
-
s
e
h
ll
g
y
s
n
n
d
n
s
d
n
-
-
it
e

What is an assault weapon? If one were to use a strict definition, it could be ANY object that is used against another individual to cause bodily harm. That can be a firearm, a rock or a feather poked in the eye. The military definition was discussed in the last paragraph. In the context of this book, however, “assault weapon” refers to a semi-automatic firearm that accepts high capacity magazines (10+ rounds) and is patterned after military issue select-fire weapons. This can mean an exact copy of an existing design, minus the components that allow full-automatic fire. Or it can be a new design that utilizes similar characteristics.

The popularly-held idea that the term “assault weapon” originated with anti-gun activists, media or politicians is wrong. The term was first adopted by the manufacturers, wholesalers, importers and dealers in the American firearms industry to stimulate sales of certain firearms that did not have an appearance that was familiar to many firearm owners. The manufacturers and gun writers of the day needed a catchy name to identify this new type of gun.

The fact that some of the semi-automatic versions of the military-style firearms retained their bayonet lugs, extended pistol grips, high capacity magazines, folding stocks and even threading for muzzle brakes and grenade launchers has been used to erroneously define “assault weapons.” But these design features were part of the attraction to this kind of firearm. All of these features are merely cosmetic and there is little if any evidence that their inclusion on a gun has been essential to some specific criminal use.

Look in many 1980s-era editions of *Gun Digest* and you will find listings of several makes and models of guns that were categorized as assault rifles or assault pistols. There were also some issues of a magazine called *The Complete Book of Assault Rifles* published in the 1980s. *Guns & Ammo* magazine published at least one issue of a magazine with the title *Assault Rifles: The New Breed of Sporting Arm*. And the truth is that many gun owners have used and still use the term in everyday conversations about firearms.

Some alternate monikers suggested by the never-call-them-assault-weapons crowd include paramilitary firearms, military pattern semi-automatics, homeland defense rifles, tactical firearms, sports



utility rifles, EBRs (Evil Black Rifles), or simply firearms. I tend to favor the term neat guns, but that could be just about any gun. There needs to be a commonly understood name for this type of firearm that does not require a drawn out definition. It really should not be that complicated.

Whatever arguments can be made about what terminology to use, the name assault weapon has been defined by law with the passage of several state and local AW laws and by the Federal Assault Weapon Ban, also known as the Crime Control and Law Enforcement Act of 1994. This law, and most of the others, regulate these firearms by model name and characteristics. (See the chapter on legal issues to read the exact wording of the currently expired Federal AW law.) By using the term "assault weapon" throughout the text of the law, they have forever added this name to the American dictionary.

J
M
li
s
it
V
c
o
C
V
M
o
th
re
vi
th
n
re
ie
fe
of
M
tu
bi
th
N
tu
re

Mass Shootings Resulting in Double-Digit Fatalities in American History (1776-2022)

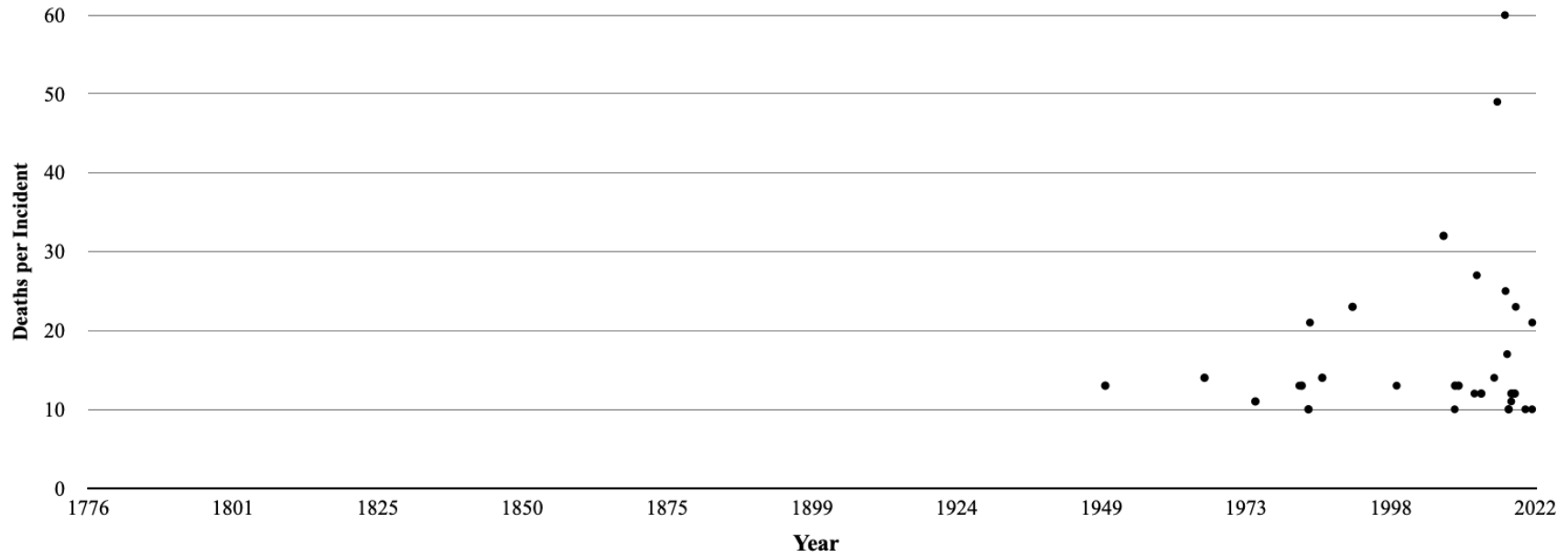
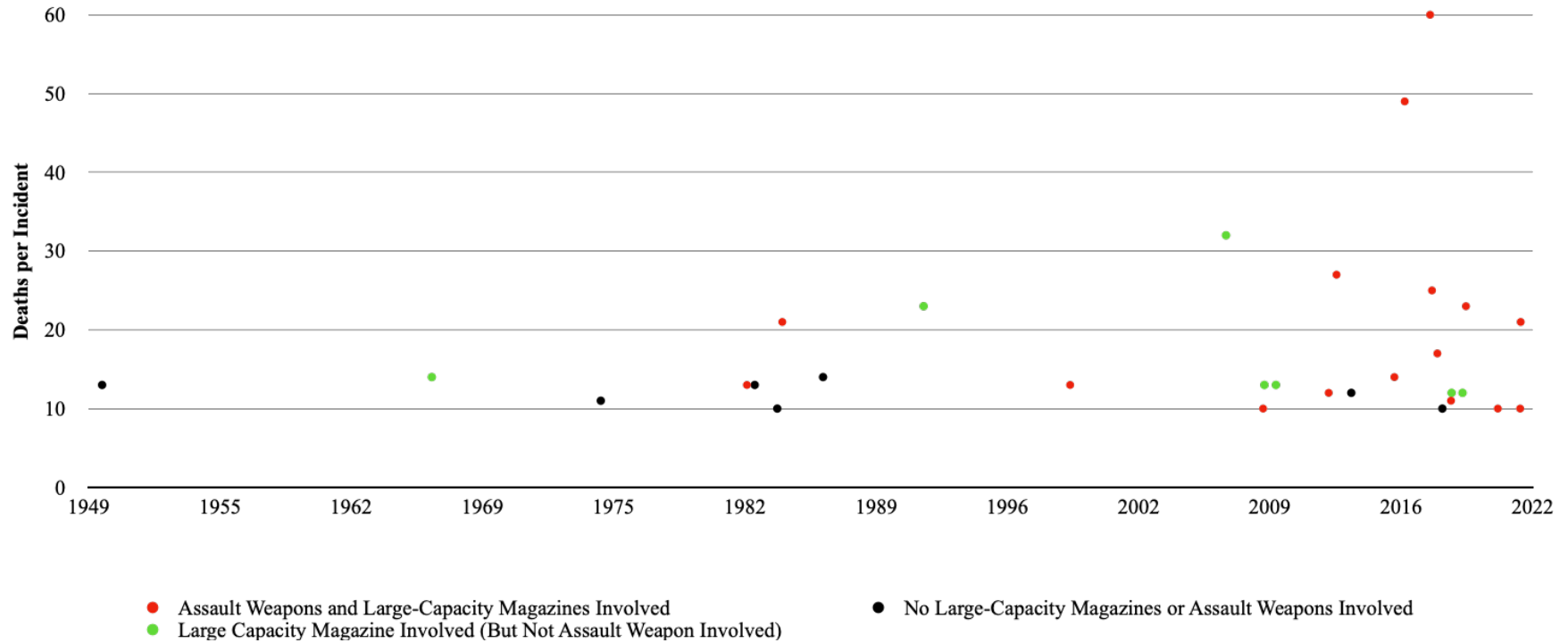


EXHIBIT G (Klarevas)

Mass Shootings Resulting in Double-Digit Fatalities in American History (1949-2022)



LOUIS KLAREVAS
RAMPAGE NATION
SECURING AMERICA FROM MASS SHOOTINGS

 **Prometheus Books**
59 John Glenn Drive
Amherst, New York 14228

in a class all by itself. No other advanced, Western democracy experiences the magnitude of gun violence that presently afflicts American society.²⁸ This is particularly true when it comes to mass shootings.²⁹

★ ★ ★

The United States does little to regulate firearms, especially at the federal level.³⁰ While it goes to great lengths to restrict access to WMDs and IEDs, the same can't be said for its efforts to keep firearms out of the hands of high-risk individuals. Indeed, the American experience with gun control nationwide is so limited that it can actually be chronicled in a few bullet points:

- The National Firearms Act of 1934: Heavily regulated machine guns, short-barrel rifles and shotguns, and silencers.
- The Federal Firearms Act of 1938: Established a federal licensing system to regulate manufacturers, importers, and dealers of firearms.
- The Omnibus Crime Control and Safe Streets Act of 1968: Prohibited anyone under twenty-one years of age from purchasing a handgun.
- The Gun Control Act of 1968: Required that all interstate firearms transfers or sales be made through a federally licensed firearms dealer and prohibited certain categories of people—felons (indicted or convicted), fugitives, drug abusers, mentally ill persons (as determined by adjudication), illegal aliens, dishonorably discharged servicemen, US-citizenship renouncers, and domestic abusers—from possessing firearms.³¹
- The Firearm Owners Protection Act of 1986: Barred the purchase or transfer of automatic weapons without government approval.
- The Undetectable Firearms Act of 1988: Required that all firearms have at least 3.7 oz. of metal that can be detected by a metal detector.
- The Gun-Free School Zones Act of 1990: Criminalized possession or discharge of a firearm in a school zone.
- The Brady Handgun Violence Prevention Act of 1993: Required

240 PART 3: PRESCRIPTION

that anyone attempting to purchase a firearm from a federally licensed dealer pass a background check.³²

- The Federal Assault Weapons Ban of 1994: Banned the sale and possession of semiautomatic assault weapons and extended-capacity magazines not grandfathered prior to the enactment of the law.³³

Of all of these measures, the National Firearms Act of 1934 and the Assault Weapons Ban of 1994 (AWB) were the only ones instituted primarily in an effort to reduce the carnage of mass shootings. The former was passed in response to a series of bloody gangland executions, including the infamous 1929 St. Valentine's Day massacre in Chicago.³⁴ While there are still machine guns in circulation, the National Firearm Act, in conjunction with the Firearm Owners Protection Act of 1986, sharply cut the availability of machine guns, which likely explains the complete elimination of massacres perpetrated with such automatic-fire weapons.

Like the National Firearms Act, the AWB was introduced following several high-profile mass shootings in the early 1990s: the Luby's restaurant, 101 California Street office complex, and Long Island Railroad train car massacres.³⁵ Signed into law by President Bill Clinton, the AWB went into effect on September 13, 1994. At the insistence of the gun-rights lobby, however, the bill contained a ten-year sunset provision. As Congress never renewed the ban, it automatically expired on September 13, 2004.

The decade the law was in effect nonetheless resulted in a unique experiment, allowing us to discern what impact, if any, the ban had on gun violence in general and mass shootings in particular. As to the former, the academic consensus seems to be that the AWB had a minimal impact on reducing violent crime.³⁶ This hardly comes as a surprise. After all, most crimes don't involve assault weapons. The real test should be: Did it succeed in its intended purpose of reducing rampage violence? The answer is a resounding yes.

Let's take a closer look.

The best way to assess the impact of something is to conduct what, in social science, we commonly refer to as a time-series analysis. Basically, that's a fancy name for a before-and-after test. Figures 7.1

BREAKING THE TRINITY 241

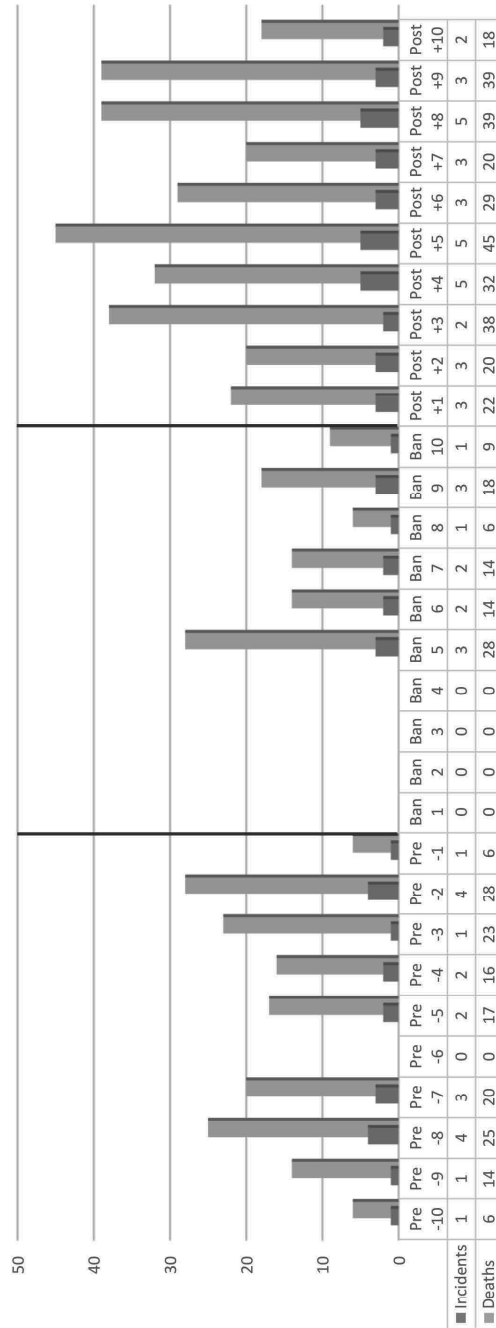


Fig. 7.1. Gun Massacres Before, During, and After the Assault Weapons Ban of 1994.

Note: The lines in the graph demarcate the start and end points of the Assault Weapons Ban, which was in effect from September 13, 1994, through September 12, 2004. The data are drawn from Table 3.2.

242 PART 3: PRESCRIPTION

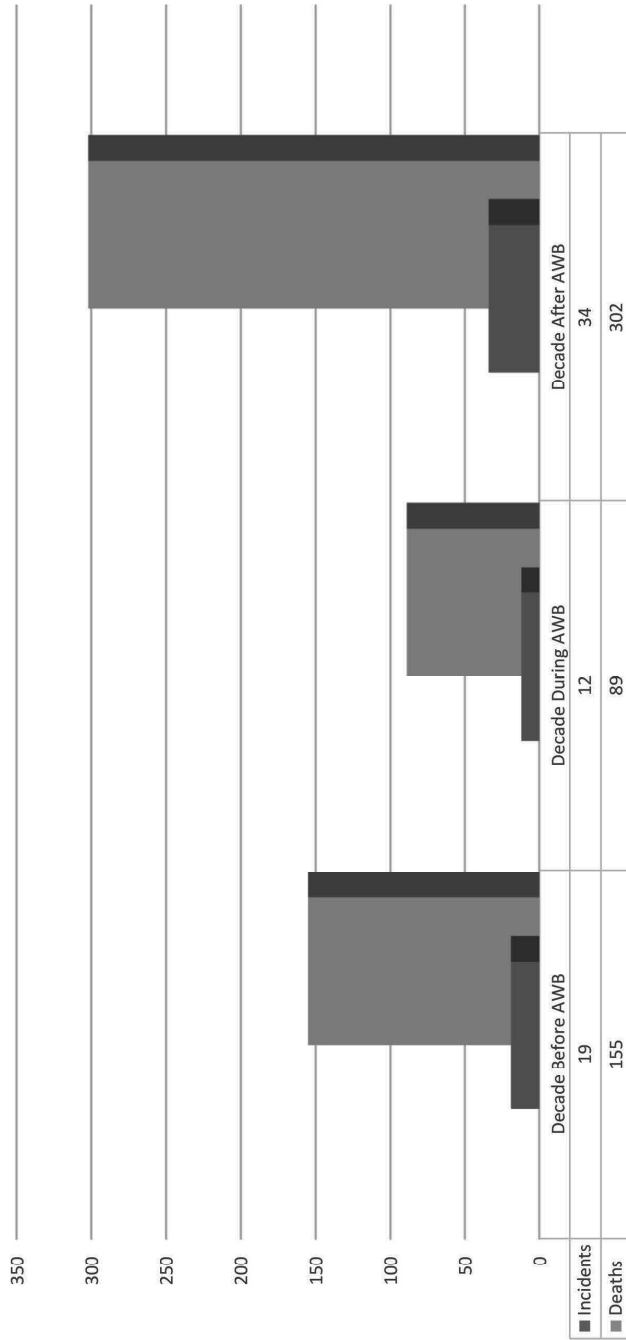


Fig. 7.2. Gun Massacres by Decade Before, During, and After the Assault Weapons Ban of 1994.
 Note: The Assault Weapons Ban was in effect from September 13, 1994, through September 12, 2004.
 The data are drawn from Table 3.2.

and 7.2 provide a look at the before-and-after pictures. In the decade prior to the enactment of the AWB, the United States experienced nineteen gun massacres that resulted in 155 cumulative deaths, for an average death toll of 8.2 fatalities per incident. During the ten-year period that the AWB was in effect, the numbers declined substantially, with only twelve gun massacres, resulting in eighty-nine deaths, for an average of 7.4 fatalities per incident.³⁷ What's particularly astounding about this time period is that during the first four and a half years of the ban, there wasn't a single gun massacre in the United States. Not one. This is unprecedented in modern American history.³⁸ Since 1966, the longest streaks without a gun massacre prior to era of the AWB were two instances of consecutive years (1969–1970 and 1979–1980).³⁹ Then, all of a sudden, from September 1994 to April 1999, the country experienced a long calm. As further evidence of the AWB's effectiveness, once it expired, rampages returned with a vengeance. In the ten years after the ban, the number of gun massacres nearly tripled to thirty-four incidents, sending the total number of deaths skyrocketing to 302, for an average of 8.9 fatalities per incident.⁴⁰ These numbers paint a clear picture: America's experiment, while short-lived, was also extremely successful.⁴¹

ZEROING OUT GUN MASSACRES

The biggest takeaway from America's experience with a ban on assault weapons and extended-capacity magazines is that gun-control legislation can save lives. But is there a way to get to zero? Is there a way to eliminate gun massacres once and for all? For that, we have to look overseas for insights.

One of the biggest obstacles to successful gun control is the ability to transport firearms across open, contiguous borders. In the United States, it's a problem that allows guns to flow freely from states with lax laws into states with strict laws. A common complaint frequently leveled by elected officials in places like California, Illinois, Maryland, New York, and Massachusetts is that people just need to drive across a state line and they can readily obtain firearms that they can then easily—if perhaps illegally—bring back into their jurisdictions.⁴² That

The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990–2017

Louis Klarevas, PhD, Andrew Conner, BS, David Hemenway, PhD

Objectives. To evaluate the effect of large-capacity magazine (LCM) bans on the frequency and lethality of high-fatality mass shootings in the United States.

Methods. We analyzed state panel data of high-fatality mass shootings from 1990 to 2017. We first assessed the relationship between LCM bans overall, and then federal and state bans separately, on (1) the occurrence of high-fatality mass shootings (logit regression) and (2) the deaths resulting from such incidents (negative binomial analysis). We controlled for 10 independent variables, used state fixed effects with a continuous variable for year, and accounted for clustering.

Results. Between 1990 and 2017, there were 69 high-fatality mass shootings. Attacks involving LCMs resulted in a 62% higher mean average death toll. The incidence of high-fatality mass shootings in non-LCM ban states was more than double the rate in LCM ban states; the annual number of deaths was more than 3 times higher. In multivariate analyses, states without an LCM ban experienced significantly more high-fatality mass shootings and a higher death rate from such incidents.

Conclusions. LCM bans appear to reduce both the incidence of, and number of people killed in, high-fatality mass shootings. (*Am J Public Health.* 2019;109:1754–1761. doi: 10.2105/AJPH.2019.305311)

The recent spate of gun massacres in the United States has re-energized the debate over how to prevent such tragedies.¹ A common response to high-profile acts of gun violence is the promotion of tighter gun legislation, and there is some evidence that laws imposing tighter restrictions on access to firearms have been associated with lower levels of mass shootings.² One proposal that has received renewed interest involves restricting the possession of large-capacity magazines (LCMs).^{3–5} This raises an important question: what has been the impact of LCM bans on high-fatality mass shootings?

In an attempt to arrest an uptick in mass shooting violence in the early 1990s, Congress in 1994 enacted the federal assault weapons ban, which, among other things, restricted ownership of certain ammunition-feeding devices.^{6,7} The law, which contained a sunset provision, was allowed to expire a decade later. Pursuant to that ban (18 USC §921(a) [1994]; repealed), it was illegal to possess LCMs—defined as any ammunition-feeding device holding more

than 10 bullets—unless the magazines were manufactured before the enactment of the ban. LCM restrictions are arguably the most important component of assault weapons bans because they also apply to semiautomatic firearms without military-style features.^{8,9}

Beginning with New Jersey in 1990, some states implemented their own regulations on LCMs. Today, 9 states and the District of Columbia restrict the possession of LCMs. The bans vary along many dimensions, including maximum bullet capacity of permissible magazines, grandfathering of existing LCMs, and applicable firearms. Moreover, overlaps sometimes exist between assault weapons bans and LCM bans, but not in all states. For example, California instituted a ban

on assault weapons in 1989, but LCMs remained unregulated in the state until 1994, when the federal ban went into effect. In 2000, California's own statewide ban on LCMs took effect as a safeguard in the event the federal ban expired, which happened in 2004.^{10,11}

LCMs provide a distinct advantage to active shooters intent on murdering numerous people: they increase the number of rounds that can be fired at potential victims before having to pause to reload or switch weapons. Evidence shows that victims struck by multiple rounds are more likely to die, with 2 studies finding that, when compared with the fatality rates of gunshot wound victims who were hit by only a single bullet, the fatality rates of those victims hit by more than 1 bullet were more than 60% higher.^{12,13} Being able to strike human targets with more than 1 bullet increases shooters' chances of killing their victims. Analyses of gunshot wound victims at level I trauma centers have suggested that this multiple-impact capability is often attributable to the use of LCMs.^{14,15}

In addition, LCMs provide active shooters with extended cover.¹⁶ During an attack, perpetrators are either firing their guns or not firing their guns. While gunmen are firing, it is extremely difficult for those in the line of fire to take successful defensive maneuvers. But if gunmen run out of bullets, there are lulls in the shootings, as the perpetrators are forced to pause their attacks to reload or change weapons. These pauses provide opportunities for people to intervene and disrupt a shooting. Alternatively, they provide individuals in

ABOUT THE AUTHORS

Louis Klarevas is with the Teachers College, Columbia University, New York, NY. Andrew Conner is with the Frank H. Netter, MD, School of Medicine, Quinnipiac University, North Haven, CT. David Hemenway is with the Harvard T. H. Chan School of Public Health, Harvard University, Boston, MA.

Correspondence should be sent to Louis Klarevas, Research Professor, Office of the Provost, Teachers College, Columbia University, 525 W 120th St, New York, NY 10027 (e-mail: ljk2149@tc.columbia.edu). Reprints can be ordered at <http://www.ajph.org> by clicking the "Reprints" link.

This article was accepted July 22, 2019.

doi: 10.2105/AJPH.2019.305311

ham's way with a chance to flee or hide. Legislative endeavors that restrict access to LCMs are implemented with the express objective of reducing an active shooter's multiple-impact capability and extended cover.¹⁰

Although mass shootings have received extensive study, there has been little scholarly analysis of LCM bans.^{17–24} The studies undertaken that have broached the subject of ammunition capacity have primarily concentrated on the effect of LCM bans on violent crimes other than mass shootings or on the impact of the assault weapons bans on mass shootings.^{25–27}

Evidence suggests that firearms equipped with LCMs are involved in a disproportionate share of mass shootings.^{10,20,28} Proponents of LCM bans believe that without LCMs, fewer people will be killed in a mass shooting, other things equal. In turn, fewer shootings will cross the threshold required to be classified as what we call a “high-fatality mass shooting” (≥ 6 victims shot to death). If LCM bans are effective, we should expect to find that high-fatality mass shootings occur at a lower incidence rate when LCM bans are in place, and fewer people are killed in such attacks. But have LCM bans actually saved lives in practice? To our knowledge, the impact of LCM bans has never been systematically assessed. This study fills that void.

METHODS

Mass shootings have been defined in a variety of ways, with some analyses setting the casualty threshold as low as 2 people wounded or killed and others requiring a minimum of 7 gunshot victims.^{18,22,29} We focused on high-fatality mass shootings—the deadliest and most disturbing of such incidents—which are defined as intentional crimes of gun violence with 6 or more victims shot to death, not including the perpetrators.^{20,30,31} After an exhaustive search, we identified 69 such incidents in the United States between 1990 and 2017. We then discerned whether each high-fatality mass shooting involved a LCM—unless otherwise stated, defined consistent with the 1994 federal ban as a detachable ammunition-feeding device capable of holding more than 10 bullets. (See Table 1 for a list of incidents and for additional details on

the search and identification strategy we employed.)

The first state to enact an LCM ban was New Jersey in 1990. Since then, another 8 states and the District of Columbia have enacted LCM bans (Table A, available as a supplement to the online version of this article at <http://www.ajph.org>).¹⁰ With no LCM bans in effect before 1990, a priori we chose that year to begin our analysis to avoid inflating the impact of the bans. Our data set extends 28 years, from 1990 through 2017. As a secondary analysis, we used a 13-year data set, beginning in 2005, the first full year after the federal assault weapons ban expired.

Our primary outcome measures were the incidence of high-fatality mass shootings and the number of victims killed. We distinguished between high-fatality mass shootings occurring with and without a ban in effect. Because the federal ban was in effect nationwide from September 13, 1994, through September 12, 2004, we coded every state as being under an LCM ban during that 10-year timeframe.

Our interest was in the effect of LCM bans. We ran regression analyses to determine if any relationship between LCM bans and high-fatality mass shootings can be explained by other factors. In our state-year panel multivariate analyses, the outcome variables were (1) whether an LCM-involved high-fatality mass shooting occurred, (2) whether any high-fatality mass shooting occurred, (3) the number of fatalities in an LCM-involved high-fatality mass shooting, and (4) the number of fatalities in any high-fatality mass shooting. Our analyses first combined and then separated federal and state LCM bans.

Consistent with the suggestions and practices of the literature on firearm homicides and mass shootings, our explanatory variables are population density; proportion of population aged 19 to 24 years, aged 25 to 34 years, that is Black, and with a college degree; real per-capita median income; unemployment rate; and per-capita prison population.^{2,26,27,32} We also added a variable for percentage of households with a firearm. All regression models controlled for total state population. When the dependent variable reflected occurrences of incidents (ordered choice data), we used logit regression; we ran probit regression as a sensitivity analysis. We had multiple observations for individual

states. To control for this, we utilized cluster-robust standard errors to account for the clustering of observations. When the dependent variable reflected deaths (count data), we used negative binomial regression; Gius used a Poisson regression, and we used that approach as a sensitivity analysis.²⁶ We included state fixed effects. We used a continuous variable for year because the rate of high-fatality mass shootings has increased over time. For purposes of sensitivity analysis, we also replaced the linear yearly trend with a quadratic function. We performed multivariate statistical analyses by using Stata/IC version 15.1 (StataCorp LP, College Station, TX).

Population data came from the US Census Bureau, unemployment data came from the Bureau of Labor Statistics, and imprisonment data came from the Bureau of Justice Statistics. The percentage of households with a firearm was a validated proxy (the percentage of suicides that are firearm suicides) derived from Centers for Disease Control and Prevention National Vital Statistics Data.³³

RESULTS

Between 1990 and 2017, there were 69 high-fatality mass shootings (≥ 6 victims shot to death) in the United States. Of these, 44 (64%) involved LCMs, 16 did not (23%), and for 9 (13%) we could not determine whether LCMs were used (Table 1). The mean number of victims killed in the 44 LCM-involved high-fatality mass shootings was 11.8; including the unknowns resulted in that average falling to 11.0 (not shown). The mean number of victims killed in high-fatality mass shootings in which the perpetrator did not use an LCM was 7.3 (Table B, available as a supplement to the online version of this article at <http://www.ajph.org>); including the unknowns resulted in that average falling to 7.1 (not shown). When we excluded unknown cases, the data indicated that utilizing LCMs in high-fatality mass shootings resulted in a 62% increase in the mean death toll.

Data sets of mass shooting fatalities by their nature involve truncated data, with the mode generally being the baseline number of fatalities required to be included in the data set (6 fatalities in the current study). Our data

TABLE 1—High-Fatality Mass Shootings in the United States, 1990–2017

Incident	Date	City	State	LCM	Deaths, No.	State LCM Ban	Federal Assault Weapons Ban
1	Jun 18, 1990	Jacksonville	FL	Y	9	N	N
2	Jan 26, 1991	Chimayo	NM	N	7	N	N
3	Aug 9, 1991	Waddell	AZ	N	9	N	N
4	Oct 16, 1991	Killeen	TX	Y	23	N	N
5	Nov 7, 1992	Morro Bay and Paso Robles	CA	N	6	N	N
6	Jan 8, 1993	Palatine	IL	N	7	N	N
7	May 16, 1993	Fresno	CA	Y	7	N	N
8	Jul 1, 1993	San Francisco	CA	Y	8	N	N
9	Dec 7, 1993	Garden City	NY	Y	6	N	N
10	Apr 20, 1999	Littleton	CO	Y	13	Y	Y
11	Jul 12, 1999	Atlanta	GA	U	6	Y	Y
12	Jul 29, 1999	Atlanta	GA	Y	9	Y	Y
13	Sep 15, 1999	Fort Worth	TX	Y	7	Y	Y
14	Nov 2, 1999	Honolulu	HI	Y	7	Y	Y
15	Dec 26, 2000	Wakefield	MA	Y	7	Y	Y
16	Dec 28, 2000	Philadelphia	PA	Y	7	Y	Y
17	Aug 26, 2002	Rutledge	AL	N	6	Y	Y
18	Jan 15, 2003	Edinburg	TX	U	6	Y	Y
19	Jul 8, 2003	Meridian	MS	N	6	Y	Y
20	Aug 27, 2003	Chicago	IL	N	6	Y	Y
21	Mar 12, 2004	Fresno	CA	N	9	Y	Y
22	Nov 21, 2004	Birchwood	WI	Y	6	N	N
23	Mar 12, 2005	Brookfield	WI	Y	7	N	N
24	Mar 21, 2005	Red Lake	MN	Y	9	N	N
25	Jan 30, 2006	Goleta	CA	Y	7	Y	N
26	Mar 25, 2006	Seattle	WA	Y	6	N	N
27	Jun 1, 2006	Indianapolis	IN	Y	7	N	N
28	Dec 16, 2006	Kansas City	KS	N	6	N	N
29	Apr 16, 2007	Blacksburg	VA	Y	32	N	N
30	Oct 7, 2007	Crandon	WI	Y	6	N	N
31	Dec 5, 2007	Omaha	NE	Y	8	N	N
32	Dec 24, 2007	Carnation	WA	U	6	N	N
33	Feb 7, 2008	Kirkwood	MO	Y	6	N	N
34	Sep 2, 2008	Alger	WA	U	6	N	N
35	Dec 24, 2008	Covina	CA	Y	8	Y	N
36	Jan 27, 2009	Los Angeles	CA	N	6	Y	N
37	Mar 10, 2009	Kinston, Samson, and Geneva	AL	Y	10	N	N
38	Mar 29, 2009	Carthage	NC	N	8	N	N
39	Apr 3, 2009	Binghamton	NY	Y	13	Y	N
40	Nov 5, 2009	Fort Hood	TX	Y	13	N	N
41	Jan 19, 2010	Appomattox	VA	Y	8	N	N

Continued

TABLE 1—Continued

Incident	Date	City	State	LCM	Deaths, No.	State LCM Ban	Federal Assault Weapons Ban
42	Aug 3, 2010	Manchester	CT	Y	8	N	N
43	Jan 8, 2011	Tucson	AZ	Y	6	N	N
44	Jul 7, 2011	Grand Rapids	MI	Y	7	N	N
45	Aug 7, 2011	Copley Township	OH	N	7	N	N
46	Oct 12, 2011	Seal Beach	CA	N	8	Y	N
47	Dec 25, 2011	Grapevine	TX	N	6	N	N
48	Apr 2, 2012	Oakland	CA	N	7	Y	N
49	Jul 20, 2012	Aurora	CO	Y	12	N	N
50	Aug 5, 2012	Oak Creek	WI	Y	6	N	N
51	Sep 27, 2012	Minneapolis	MN	Y	6	N	N
52	Dec 14, 2012	Newtown	CT	Y	27	N	N
53	Jul 26, 2013	Hialeah	FL	Y	6	N	N
54	Sep 16, 2013	Washington	DC	N	12	Y	N
55	Jul 9, 2014	Spring	TX	Y	6	N	N
56	Sep 18, 2014	Bell	FL	U	7	N	N
57	Feb 26, 2015	Tyrone	MO	U	7	N	N
58	May 17, 2015	Waco	TX	Y	9	N	N
59	Jun 17, 2015	Charleston	SC	Y	9	N	N
60	Aug 8, 2015	Houston	TX	U	8	N	N
61	Oct 1, 2015	Roseburg	OR	Y	9	N	N
62	Dec 2, 2015	San Bernardino	CA	Y	14	Y	N
63	Feb 21, 2016	Kalamazoo	MI	Y	6	N	N
64	Apr 22, 2016	Pikeston	OH	U	8	N	N
65	Jun 12, 2016	Orlando	FL	Y	49	N	N
66	May 27, 2017	Brookhaven	MS	U	8	N	N
67	Sep 10, 2017	Plano	TX	Y	8	N	N
68	Oct 1, 2017	Las Vegas	NV	Y	58	N	N
69	Nov 5, 2017	Sutherland Springs	TX	Y	25	N	N

Note. LCM = large-capacity magazine; N = no; U = unknown; Y = yes. From September 13, 1994, until and including September 12, 2004, each and every state, including the District of Columbia, was subject to a ban on LCMs pursuant to the federal assault weapons ban. To collect the data in Table 1, we searched the following news media resources for every shooting that resulted in 6 or more fatalities: America’s Historical Newspapers, EBSCO, Factiva, Gannett Newsstand, Google News Archive, Lexis-Nexis, Newspaper Archive, Newspaper Source Plus, Newspapers.com, Newswires, ProQuest Historical Newspapers, and ProQuest Newsstand. We also reviewed mass shooting data sets maintained by *Mother Jones*, the *New York Times*, and *USA Today*. In addition to news media sources, we reviewed reports on mass shootings produced by think tank, policy advocacy, and governmental organizations, including the US Federal Bureau of Investigation Supplementary Homicide Reports, the crowdsourced Mass Shooting Tracker, and the open-source databases maintained by the Gun Violence Archive and the Stanford University Geospatial Center. Finally, when it was relevant, we also reviewed court records as well as police, forensic, and autopsy reports. As a general rule, when government sources were available, they were preferred over other sources. Furthermore, when media sources conflicted on the number of casualties or the weaponry involved, the later sources were privileged (as later reporting is often more accurate).

set of high-fatality mass shootings was no exception. As such, the median average number of fatalities for each subset of incidents—those involving and those not involving LCMs—was necessarily lower than the mean average. Nevertheless, like the mean average, the median average was higher when LCMs were employed—a median

average of 8 fatalities per incident compared with 7 fatalities per incident for attacks not involving LCMs.

For the 60 incidents in which it was known if an LCM was used, in 44 the perpetrator used an LCM. Of the 44 incidents in which the perpetrators used LCMs, 77% (34/44) were in nonban states. In the 16 incidents in

which the perpetrators did not use LCMs, 50% (8/16) were in nonban states (Table B, available as a supplement to the online version of this article at <http://www.ajph.org>). Stated differently, in nonban states, 81% (34/42) of high-fatality mass shooting perpetrators used LCMs; in LCM-ban states, only 55% (10/18) used LCMs.

The rate of high-fatality mass shootings increased considerably after September 2004 (when the federal assault weapons ban expired). In the 10 years the federal ban was in effect, there were 12 high-fatality mass shootings and 89 deaths (an average of 1.2 incidents and 8.9 deaths per year). Since then, through 2017, there have been 48 high-fatality mass shootings and 527 deaths (an average of 3.6 incidents and 39.6 deaths per year in these 13.3 years).

Of the 69 high-fatality mass shootings from 1990 to 2017, 49 occurred in states without an LCM ban in effect at the time and 20 in states with a ban in effect at the time. The annual incidence rate for high-fatality mass shootings in states without an LCM ban was 11.7 per billion population; the annual incidence rate for high-fatality mass shootings in states with an LCM ban was 5.1 per billion population. In that 28-year period, the rate of high-fatality mass shootings per capita was 2.3 times higher in states without an LCM ban (Table 2).

Non-LCM ban states had not only more incidents but also more deaths per incident (10.9 vs 8.2). The average annual number of high-fatality mass shooting deaths per billion population in the non-LCM ban states was

127.4. In the LCM ban states, it was 41.6 (Table 2).

For the time period beginning with the first full calendar year following the expiration of the federal assault weapons ban (January 1, 2005–December 31, 2017), there were 47 high-fatality mass shootings in the United States. Of these, 39 occurred in states where an LCM ban was not in effect, and 8 occurred in LCM ban locations. The annual incidence rate for high-fatality mass shootings in states without an LCM ban was 13.2 per billion population; for states with an LCM ban, it was 7.4 per billion population (Table 2). During this period, non-LCM ban states had not only more incidents but also more deaths per incident (11.4 vs 9.4). In terms of high-fatality mass shooting deaths per billion population, the annual number of deaths in the non-LCM ban states was 150.6; in the LCM ban states it was 69.2 (Table 2).

When we limited the analysis solely to high-fatality mass shootings that definitely involved LCMs, the differences between ban and nonban states became larger. For example, for the entire period of 1990 to 2017, of the 44 high-fatality mass shootings that involved LCMs, the annual incidence rate for LCM-involved high-fatality mass shootings

in nonban states was 8.1 per billion population; in LCM-ban states it was 2.5 per billion population. The annual rate of high-fatality mass shooting deaths in the non-LCM ban states was 102.1 per billion population; in the LCM ban states it was 23.3. In terms of LCM-involved high-fatality mass shootings, we also found comparable wide differences in incidence and fatality rates between ban and nonban states for the post-federal assault weapons ban period (2005–2017; Table 2).

We found largely similar results in the multivariate analyses (1990–2017). States that did not ban LCMs were significantly more likely to experience LCM-involved high-fatality mass shootings as well as more likely to experience any high-fatality mass shootings (regardless of whether an LCM was involved). States that did not ban LCMs also experienced significantly more deaths from high-fatality mass shootings, operationalized as the absolute number of fatalities (Table 3).

When the LCM bans were separated into federal and state bans, both remained significantly related to the incidence of LCM-involved high-fatality mass shooting events and to the number of LCM-involved high-fatality mass shooting deaths. The associations between federal and state bans and

TABLE 2—High-Fatality Mass Shootings (≥ 6 Victims Shot to Death) by Whether LCM Bans Were in Effect: United States, 1990–2017

	Average Annual Population, No. (Millions)	Total Incidents, No.	Annual Incidents per Billion Population, No.	Total Deaths, No.	Annual Deaths per Billion Population, No.	Deaths per Incident, No.
All high-fatality mass shootings, 1990–2017 (28 y)						
Non-LCM ban states	149.7	49	11.7	534	127.4	10.9
LCM ban states	140.7	20	5.1	164	41.6	8.2
All high-fatality mass shootings, 2005–2017 (13 y)						
Non-LCM ban states	227.8	39	13.2	446	150.6	11.4
LCM ban states	83.4	8	7.4	75	69.2	9.4
LCM-involved high-fatality mass shootings, 1990–2017 (28 y)						
Non-LCM ban states	149.7	34	8.1	428	102.1	12.6
LCM ban states	140.7	10	2.5	92	23.3	9.2
LCM-involved high-fatality mass shootings, 2005–2017 (13 y)						
Non-LCM ban states	227.8	28	9.5	369	124.6	13.2
LCM ban states	83.4	4	3.7	42	38.7	10.5
Non-LCM high-fatality mass shootings, 1990–2017 (28 y)						
Non-LCM ban states	149.7	8	1.9	56	13.4	7.0
LCM ban states	140.7	8	2.0	60	15.2	7.5

Note. LCM = large-capacity magazine.

TABLE 3—Multivariate Results of the Relationship Between LCM Bans and High-Fatality Mass Shootings (≥ 6 Victims Shot to Death), 1990–2017 Combined Federal and State Large Capacity Magazine Bans: United States

	LCM-Involved High-Fatality Mass Shootings, b (95% CI)		All High-Fatality Mass Shootings, b (95% CI)	
	Incidents ^a	No. Deaths ^b	Incidents ^a	No. Deaths ^b
All LCM bans (federal and state)	-2.217 (-3.493, -0.940)	-5.912 (-9.261, -2.563)	-1.283 (-2.147, -0.420)	-3.660 (-5.695, -1.624)
Population density	-0.011 (-0.052, 0.031)	0.013 (-0.068, 0.095)	0.001 (-0.003, 0.006)	0.011 (-0.005, 0.026)
% aged 19–24 y	-0.480 (-1.689, 0.730)	-2.496 (-5.893, 0.901)	0.283 (-0.599, 1.164)	-0.585 (-2.666, 1.495)
% aged 25–34 y	-0.801 (-1.512, -0.089)	-2.390 (-4.391, -0.388)	-0.337 (-0.871, 0.197)	-1.114 (-2.463, 0.235)
% Black	-0.227 (-1.062, 0.607)	-0.654 (-2.831, 1.522)	-0.163 (-0.703, 0.377)	-0.261 (-1.391, 0.870)
% with a bachelor’s degree or higher	-0.009 (-0.492, 0.474)	-0.469 (-1.590, 0.652)	0.143 (-0.214, 0.501)	0.183 (-0.715, 1.081)
Percentage of households with a firearm (proxy)	-0.047 (-0.195, 0.101)	-0.147 (-0.546, 0.251)	-0.020 (-0.131, 0.091)	-0.084 (-0.368, 0.200)
Median household income	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)
Unemployment rate	-0.072 (-0.293, 0.149)	-0.476 (-1.081, 0.129)	0.041 (-0.135, 0.216)	-0.182 (-0.628, 0.263)
Imprisonment rate (per 100 000 population)	-0.006 (-0.012, 0.001)	-0.007 (-0.017, 0.004)	-0.001 (-0.006, 0.003)	-0.003 (-0.012, 0.007)
Total population	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)
Pseudo R ²	0.31	0.16	0.26	0.11

Note. CI = confidence interval; LCM = large-capacity magazine. There were a total of 1428 observations in state-years (51 jurisdictions—all 50 states plus Washington, DC—over a 28-year period). Mean variance inflation factor = 3.49.

^aLogit regression.

^bNegative binomial regression.

the overall incidence of all high-fatality mass shootings as well as the total number of victims in these events remained strongly negative but was only sometimes statistically significant (Table 4).

In terms of sensitivity analyses, using probit instead of logit gave us similar results (not shown). When the outcome variable was the number of high-fatality mass shooting deaths, we obtained largely similar results concerning the association between LCM bans and the outcome variables, regardless of whether we used Poisson or negative binomial regression (not shown). Moreover, replacing the linear yearly trend with a quadratic function did not change the major results of the analyses (not shown). Variance inflation factors for all the independent variables never exceeded 10.0, with the variance inflation factor for LCM ban variables always being less than 2.0, indicating that there were no significant multicollinearity issues (Tables 3 and 4).

DISCUSSION

In the United States, LCMs are disproportionately used in high-fatality mass shootings (incidents in which ≥ 6 victims are shot to death). In at least 64% of the incidents

since 1990, perpetrators used LCMs. (For 23%, we determined that they did not involve LCMs, and a determination could not be made for the remaining 13%.) Previous research has shown that LCM firearms are used in a high share of mass murders (typically defined as ≥ 4 homicides) and murders of police.⁹

We could not find reliable estimates of LCM firearms in the US gun stock. However, it is likely much lower than 64%, given that commonly owned firearms such as revolvers, bolt-action rifles, and shotguns are not typically designed to be LCM-capable. During the decade the federal assault weapons ban was in effect, no firearms were legally manufactured with LCMs for sale in the United States. In the postban era, semiautomatic firearms, especially pistols, are often sold with factory-issue LCMs, but firearms that are not semiautomatic are not sold with such magazines.

Why do we find LCMs so prominent among high-fatality mass shootings? We suspect there are 2 main reasons. The first is that perpetrators probably deliberately select LCMs because they facilitate the ability to fire many rounds without having to stop to reload. The second reason is that the ability of shooters to kill many victims—especially the 6 victims required to be included in our data set—may be reduced if LCMs are not

available. In other words, the first explanation is that shooters perceive LCMs to be more effective at killing many people; the second explanation is that LCMs are indeed more effective at killing many people.

High-fatality mass shootings are not common, even in the United States. Between 1990 and 2017, there has been an average of 2.5 incidents per year, with an average of 25 people killed annually in such attacks. However, the number of incidents and the number of people killed per incident have been increasing since the end of the federal assault weapons ban.

In our study, we found that bans on LCMs were associated with both lower incidence of high-fatality mass shootings and lower fatality tolls per incident. The difference in incidence and overall number of fatalities between states, with and without bans, was even greater for LCM-involved high-fatality mass shootings.

The multivariate results are largely consistent with these bivariate associations. When we controlled for 10 independent variables often associated with overall crime rates, as well as state and year effects, states with LCM bans had lower rates of high-fatality mass shootings and fewer high-fatality mass shooting deaths. When we investigated federal and state bans separately in the multiple

TABLE 4—Multivariate Results of the Relationship Between Large Caliber Magazine Bans and High-Fatality Mass Shootings (≥ 6 Victims Shot to Death), 1990–2017 Separate Federal and State Large Caliber Magazine Bans: United States

	LCM-Involved High-Fatality Mass Shootings, b (95% CI)		All High-Fatality Mass Shootings, b (95% CI)	
	Incidents ^a	No. Deaths ^b	Incidents ^a	No. Deaths ^b
Federal LCM ban	-1.434 (-2.622, -0.245)	-3.571 (-7.103, -0.038)	-0.895 (-1.806, 0.016)	-2.570 (-4.902, -0.238)
State LCM bans	-2.603 (-4.895, -0.311)	-8.048 (-15.172, -0.925)	-1.277 (-2.977, 0.422)	-3.082 (-7.227, 1.064)
Population density	-0.012 (-0.055, 0.030)	-0.001 (-0.085, 0.083)	0.001 (-0.003, 0.006)	0.009 (-0.007, 0.024)
% aged 19–24 y	-0.311 (-1.499, 0.878)	-2.589 (-6.057, 0.879)	0.342 (-0.551, 1.236)	-0.531 (-2.759, 1.698)
% aged 25–34 y	-0.812 (-1.532, -0.093)	-2.660 (-4.848, -0.471)	-0.323 (-0.864, 0.217)	-0.848 (-2.236, 0.539)
% Black	-0.229 (-1.101, 0.643)	-0.770 (-3.232, 1.693)	-0.150 (-0.698, 0.398)	-0.154 (-1.321, 1.013)
% with a bachelor's degree or higher	-0.031 (-0.447, 0.509)	-0.479 (-1.577, 0.618)	0.156 (-0.199, 0.511)	0.269 (-0.567, 1.106)
Percentage of households with a firearm (proxy)	-0.055 (-0.210, 0.101)	-0.227 (-0.651, 0.196)	-0.019 (-0.133, 0.094)	-0.107 (-0.399, 0.186)
Median household income	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)
Unemployment rate	-0.061 (-0.284, 0.162)	-0.420 (-1.041, 0.201)	0.046 (-0.132, 0.224)	-0.157 (-0.619, 0.305)
Imprisonment rate (per 100 000 population)	-0.006 (-0.013, 0.000)	-0.012 (-0.026, 0.002)	-0.002 (-0.007, 0.003)	-0.003 (-0.014, 0.007)
Total population	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)	0.000 (0.000, 0.000)
Pseudo <i>R</i> ²	0.30	0.15	0.26	0.11

Note. CI = confidence interval; LCM = large-capacity magazine. There were a total of 1428 observations in state-years (51 jurisdictions—all 50 states plus Washington, DC—over a 28-year period). Mean variance inflation factor = 3.45.

^aLogit regression.

^bNegative binomial regression.

regressions, both were significantly associated with the incidence of LCM-involved high-fatality mass shootings as well as the number of victims in LCM-involved attacks. The relationship between these bans, considered separately, and all high-fatality mass shooting incidence and deaths is often not statistically significant, although this may be attributable to lack of statistical power (number of observations) to find a statistically significant effect.

Our analysis provides answers to 4 important questions:

1. How often are LCMs used in high-fatality mass shootings? At minimum, 64% of high-fatality mass shootings perpetrated between 1990 and 2017 involved LCMs.
2. Are more people killed when LCMs are used? Yes, and the difference in our data set is substantial and statistically significant (11.8 vs 7.3). We should add that our results likely underestimate the difference because we have a truncated sample (we only examined incidents with at least 6 victim fatalities), compounded by the fact that the number of homicide incidents fell as the number of victims increased.
3. Do states with LCM bans experience high-fatality mass shootings involving LCMs at a lower rate and a lower fatality

count than those states with no such bans in effect? Yes. In fact, the effect is more pronounced for high-fatality mass shootings involving LCMs than for those not involving LCMs.

4. Do states with LCM bans experience high-fatality mass shootings (regardless of whether they involve LCMs) at a lower rate and a lower fatality count than states with no such bans in effect? Yes.

Limitations

Our study had various limitations. First, although we carefully searched for every high-fatality mass shooting, it is possible that we might have missed some. Nevertheless, we suspect that this is unlikely, because it would mean that others who compiled lists have also missed the same ones, for we checked our list against multiple sources.

Second, our definition of a high-fatality mass shooting is a shooting that results in 6 or more fatal victims. A different threshold criterion (e.g., 6 or more people shot; 5 or more victims killed), might lead to somewhat different results. We expect that as the number of victims in a shooting increases, the likelihood that the perpetrator used an LCM

also increases. Indeed, of the 13 high-fatality mass shootings with 10 or more fatalities in our data set, 12 (92%) involved an LCM.

Third, although many high-fatality mass shootings tend to be highly publicized, in 13% of the incidents we reviewed, we could not determine whether an LCM was used. As a sensitivity analysis, we assessed the assumptions that all of the unknown cases first did, and then did not, involve LCMs. Neither assumption appreciably changed our main results (not shown).

Fourth, as a general rule, clustering standard errors is most appropriate when there is a large number of treated units. Although during the decade of the federal assault weapons bans all 50 states plus the District of Columbia regulated LCMs, during the remaining time periods under examination, only 8 jurisdictions regulated LCMs. As a result, there is the possibility that the standard errors were underestimated in our analyses.³⁴

Fifth, there were only 69 events that met our criterion for a “high-fatality mass shooting.” Although 69 is a horrific number of incidents, for statistical purposes, it is a relatively small number and limits the power to detect significant associations. For example, we did not have the statistical power (and thus did not even try) to determine whether

different aspects of the various LCM laws might have differential effects on the incidence of high-fatality mass shootings. Moreover, because of suboptimal statistical power, there is also the possibility that the magnitude of the effects detected was overestimated.³⁵

Public Health Implications

LCMs increase the ability to fire large numbers of bullets without having to pause to reload. Any measure that can force a pause in an active shooting—creating opportunities for those in the line of fire to flee, take cover, or physically confront a gunman—offers a possibility of reducing the number of victims in such an attack. To put it in different terms, if the only firearms available were 18th-century muskets, it is doubtful that mass shootings would be the social problem they are today.

The impact of individual state firearm laws is reduced by the fact that guns often move across state lines—occasionally purchased in locales with more permissive laws and taken to states with more restrictive laws. This is partly why efforts aimed at reducing the frequency and lethality of mass shootings must necessarily be multifaceted and multidisciplinary. Legal restrictions on firearms are merely a part of this broader, public health approach. That being said, the theory behind reducing the availability of LCMs to reduce the number of victims in mass shootings makes sense, and our empirical results, consistent with much of the limited literature on mass shootings, suggest that LCM bans have been effective in saving lives. **AJPH**

CONTRIBUTORS

L. Klarevas and D. Hemenway designed the study, collected the data, and contributed equally to all parts of the study. A. Conner ran the statistical analyses and helped construct the tables that report the results of the multivariate analyses. All authors approved the final article as submitted.

ACKNOWLEDGMENTS

The authors would like to thank John Berrigan, research assistant at the Harvard Injury Control Research Center, for his assistance with the undertaking of this study.

CONFLICTS OF INTEREST

L. Klarevas has, in the past 2 years, served as an expert to the states of Colorado and California in civil litigation that involved the constitutionality of state restrictions on large-capacity magazines. The authors have no additional conflicts of interest to report.

HUMAN PARTICIPANT PROTECTION

No protocol approval was needed because no human participants were involved in this study.

REFERENCES

1. Wintemute GJ. How to stop mass shootings. *N Engl J Med*. 2018;379(13):1193–1196.
2. Reeping PM, Cerda M, Kalesan B, Wiebe DJ, Galea S, Branas CC. State gun laws, gun ownership, and mass shootings in the US: cross sectional time series. *BMJ*. 2019; 364(8190):1542–1548.
3. Sanger-Katz M, Bui Q. How to reduce mass shooting deaths? Experts rank gun laws. *New York Times*. October 5, 2017. Available at: <https://www.nytimes.com/interactive/2017/10/05/upshot/how-to-reduce-mass-shooting-deaths-experts-say-these-gun-laws-could-help.html>. Accessed June 10, 2019.
4. Kamerow D. Guns don't kill crowds, people with semi-automatics do. *BMJ*. 2011;342(1):d477.
5. Barry CL, Webster DW, Stone E, Crifasi CK, Vermick JS, McGinty EE. Public support for gun violence prevention policies among gun owners and non-gun owners in 2017. *Am J Public Health*. 2018;108(7): 878–881.
6. Lenett MG. Taking a bite out of violent crime. *Univ Dayton Law Rev*. 1995;20(2):573–617.
7. Muchnick JY. The assault weapons ban: saving lives. *Univ Dayton Law Rev*. 1995;20(2):641–651.
8. Koper CS, Roth JA. The impact of the 1994 federal assault weapon ban on gun violence outcomes: an assessment of multiple outcome measures and some lessons for policy evaluation. *J Quant Criminol*. 2001;17(1):33–74.
9. Koper CS, Johnson WD, Nicholas JL, Ayers A, Mullins N. Criminal use of assault weapons and high-capacity semiautomatic firearms: an updated examination of local and national sources. *J Urban Health*. 2018;95(3):313–321.
10. Giffords Law Center to Prevent Gun Violence. Large capacity magazines. Available at: <http://lawcenter.giffords.org/gun-laws/policy-areas/hardware-ammunition/large-capacity-magazines>. Accessed June 10, 2019.
11. Giffords Law Center to Prevent Gun Violence. Assault weapons. Available at: <https://lawcenter.giffords.org/gun-laws/policy-areas/hardware-ammunition/assault-weapons>. Accessed June 10, 2019.
12. Webster DW, Champion HR, Gainer PS, Sykes L. Epidemiologic changes in gunshot wounds in Washington, DC, 1983–1990. *Arch Surg*. 1992;127(6): 694–698.
13. Koper CS, Roth JA. A priori assertions versus empirical inquiry: a reply to Kleck. *J Quant Criminol*. 2001; 17(1):81–88.
14. Livingston DH, Lavery RF, Lopreiato MC, Lavery DF, Passannante MR. Unrelenting violence: an analysis of 6,322 gunshot wound patients at a level I trauma center. *J Trauma Acute Care Surg*. 2014;76(1):2–9.
15. Manley NR, Fabian TC, Sharpe JP, Magnotti LJ, Croce MA. Good news, bad news: an analysis of 11,294 gunshot wounds (GSWs) over two decades in a single center. *J Trauma Acute Care Surg*. 2017;84(1):58–65.
16. McCullough J. *The Ultimate Guide to US Army Combat Skills, Tactics and Techniques*. New York, NY: Skyhorse; 2012.
17. Fox JA, DeLateur MJ. Mass shootings in America: moving beyond Newtown. *Homicide Stud*. 2014;18(1): 125–145.

18. Krouse WJ, Richardson DJ. Mass murder with fire-arms: incidents and victims, 1999–2013. CRS Report R44126. Washington, DC: Congressional Research Service; 2015.
19. Wilson LC. *The Wiley Handbook of the Psychology of Mass Shootings*. Hoboken, NJ: Wiley; 2016.
20. Klarevas L. *Rampage Nation: Securing America From Mass Shootings*. Amherst, NY: Prometheus; 2016.
21. Schildkraut J, Elsass HJ. *Mass Shootings: Media, Myths, and Realities*. Denver, CO: Praeger; 2016.
22. Schildkraut J. *Mass Shootings in America: Understanding the Debates, Causes, and Responses*. Denver, CO: ABC-CLIO; 2018.
23. Rocque M, Duwe G. Rampage shootings: an historical, empirical, and theoretical overview. *Curr Opin Psychol*. 2018;19(1):28–33.
24. Phaneuf SW. Mass shootings: understanding the complexities. In: Hilinski-Rosick CM, Lee DR, eds. *Contemporary Issues in Victimology: Identifying Patterns and Trends*. New York, NY: Lexington; 2018.
25. Moody CE, Marvell TB. Clustering and standard error bias in fixed effects panel data regressions. *J Quant Crim*; 2018:1–23.
26. Gius M. The impact of state and federal assault weapons bans on public mass shootings. *Appl Econ Lett*. 2015;22(4):281–284.
27. Blau BM, Gorry DH, Wade C. Guns, laws and public shootings in the United States. *Appl Econ*. 2016;48(49): 4732–4746.
28. Follman M, Aronsen G, Pan D. A guide to mass shootings in America. *Mother Jones*. May 31, 2019. Available at: <https://www.motherjones.com/politics/2012/07/mass-shootings-map>. Accessed June 10, 2019.
29. Kleck G. Large-capacity magazines and the casualty counts in mass shootings: the plausibility of linkages. *Justice Res Policy*. 2016;17(1):28–47.
30. Webster DW, Donohue JJ, Klarevas L, et al. Firearms on college campuses: research evidence and policy implications. Report of the Johns Hopkins University Center for Gun Policy and Research. Baltimore, MD: Johns Hopkins Bloomberg School of Public Health; 2016.
31. Kleck G. *Targeting Guns: Firearms and Their Control*. Hawthorne, NY: Aldine de Gruyter; 1997.
32. Hemenway D. *Private Guns, Public Health*. Ann Arbor, MI: University of Michigan Press; 2017.
33. Azrael D, Cook PJ, Miller M. State and local prevalence of firearms ownership: measurement, structure and trends. *J Quant Criminol*. 2004;20(1):43–62.
34. Conley TG, Taber CR. Inference with “difference in differences” with a small number of policy changes. *Rev Econ Stat*. 2011;93(1):113–125.
35. Button KS, Ioannidis JPA, Mokrysz C, et al. Power failure: why small sample size undermines the reliability of neuroscience [erratum *Nat Rev Neurosci*. 2013;14(6):451]. *Nat Rev Neurosci*. 2013;14(5):365–376.

AAST 2018 PODIUM PAPER

Changes in US mass shooting deaths associated with the 1994–2004 federal assault weapons ban: Analysis of open-source data

Charles DiMaggio, PhD, MPH, Jacob Avraham, MD, Cherisse Berry, MD, Marko Bukur, MD, Justin Feldman, ScD, Michael Klein, MD, Noor Shah, MD, Manish Tandon, MD, and Spiros Frangos, MD, MPH, *New York, New York*

AAST Continuing Medical Education Article

Accreditation Statement

This activity has been planned and implemented in accordance with the Essential Areas and Policies of the Accreditation Council for Continuing Medical Education through the joint providership of the American College of Surgeons and the American Association for the Surgery of Trauma. The American College of Surgeons is accredited by the ACCME to provide continuing medical education for physicians.

AMA PRA Category 1 Credits™

The American College of Surgeons designates this journal-based CME activity for a maximum of 1 AMA PRA Category 1 Credit™. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

Of the AMA PRA Category 1 Credit™ listed above, a maximum of 1 credit meets the requirements for self-assessment.

Credits can only be claimed online



AMERICAN COLLEGE OF SURGEONS

Inspiring Quality:
Highest Standards, Better Outcomes

100+ years

Objectives

After reading the featured articles published in the *Journal of Trauma and Acute Care Surgery*, participants should be able to demonstrate increased understanding of the material specific to the article. Objectives for each article are featured at the beginning of each article and online. Test questions are at the end of the article, with a critique and specific location in the article referencing the question topic.

Claiming Credit

To claim credit, please visit the AAST website at <http://www.aast.org/> and click on the “e-Learning/MOC” tab. You must read the article, successfully complete the post-test and evaluation. Your CME certificate will be available immediately upon receiving a passing score of 75% or higher on the post-test. Post-tests receiving a score of below 75% will require a retake of the test to receive credit.

System Requirements

The system requirements are as follows: Adobe® Reader 7.0 or above installed; Internet Explorer® 7 and above; Firefox® 3.0 and above, Chrome® 8.0 and above, or Safari™ 4.0 and above.

Questions

If you have any questions, please contact AAST at 800-789-4006. Paper test and evaluations will not be accepted.

Disclosure Information

In accordance with the ACCME Accreditation Criteria, the American College of Surgeons, as the accredited provider of this journal activity, must ensure that anyone in a position to control the content of *J Trauma Acute Care Surg* articles selected for CME credit has disclosed all relevant financial relationships with any commercial interest. Disclosure forms are completed by the editorial staff, associate editors, reviewers, and all authors. The ACCME defines a ‘commercial interest’ as “any entity producing, marketing, re-selling, or distributing health care goods or services consumed by, or used on, patients.” “Relevant” financial relationships are those (in any amount) that may create a conflict of interest and occur within the 12 months preceding and during the time that the individual is engaged in writing the article. All reported conflicts are thoroughly managed in order to ensure any potential bias within the content is eliminated. However, if you perceive a bias within the article, please report the circumstances on the evaluation form.

Please note we have advised the authors that it is their responsibility to disclose within the article if they are describing the use of a device, product, or drug that is not FDA approved or the off-label use of an approved device, product, or drug or unapproved usage.

Disclosures of Significant Relationships with Relevant Commercial Companies/Organizations by the Editorial Staff

Ernest E. Moore, Editor: PI, research support and shared U.S. patents Haemonetics; PI, research support, Instrumentation Laboratory, Inc.; Co-founder, Thrombo Therapeutics. Associate Editors David Hoyt, Ronald V. Maier and Steven Shackford have nothing to disclose. Editorial staff and Angela Sauaia have nothing to disclose.

Author Disclosures

The authors have nothing to disclose.

Reviewer Disclosures

The reviewers have nothing to disclose.

Cost

For AAST members and *Journal of Trauma and Acute Care Surgery* subscribers there is no charge to participate in this activity. For those who are not a member or subscriber, the cost for each credit is \$25.

From the Department of Surgery, Division of Trauma and Critical Care Surgery (C.D., J.A., C.B., M.B., J.F., M.K., N.S., M.T., S.F.), New York University School of Medicine, New York, New York.

Address for reprints: Charles DiMaggio, PhD, MPH, Department of Surgery, New York University School of Medicine, 462 First Ave, NBV 15, New York, NY 10016-9196; email: Charles.DiMaggio@nyumc.org.

77th Annual Meeting of AAST and the World Trauma Congress, Sep 26 - 29, 2018, San Diego, California.

DOI: 10.1097/TA.0000000000002060

J Trauma Acute Care Surg
Volume 86, Number 1

EXHIBIT J (Klarevas)
Copyright © 2018 Wolters Kluwer Health, Inc. All rights reserved.

BACKGROUND:	A federal assault weapons ban has been proposed as a way to reduce mass shootings in the United States. The Federal Assault Weapons Ban of 1994 made the manufacture and civilian use of a defined set of automatic and semiautomatic weapons and large capacity magazines illegal. The ban expired in 2004. The period from 1994 to 2004 serves as a single-arm pre-post observational study to assess the effectiveness of this policy intervention.
METHODS:	Mass shooting data for 1981 to 2017 were obtained from three well-documented, referenced, and open-source sets of data, based on media reports. We calculated the yearly rates of mass shooting fatalities as a proportion of total firearm homicide deaths and per US population. We compared the 1994 to 2004 federal ban period to non-ban periods, using simple linear regression models for rates and a Poisson model for counts with a year variable to control for trend. The relative effects of the ban period were estimated with odds ratios.
RESULTS:	Assault rifles accounted for 430 or 85.8% of the total 501 mass-shooting fatalities reported (95% confidence interval, 82.8–88.9) in 44 mass-shooting incidents. Mass shootings in the United States accounted for an increasing proportion of all firearm-related homicides (coefficient for year, 0.7; $p = 0.0003$), with increment in year alone capturing over a third of the overall variance in the data (adjusted $R^2 = 0.3$). In a linear regression model controlling for yearly trend, the federal ban period was associated with a statistically significant 9 fewer mass shooting related deaths per 10,000 firearm homicides ($p = 0.03$). Mass-shooting fatalities were 70% less likely to occur during the federal ban period (relative rate, 0.30; 95% confidence interval, 0.22–0.39).
CONCLUSION:	Mass-shooting related homicides in the United States were reduced during the years of the federal assault weapons ban of 1994 to 2004. (<i>J Trauma Acute Care Surg.</i> 2019;86: 11–19. Copyright © 2018 American Association for the Surgery of Trauma.)
LEVEL OF EVIDENCE:	Observational, level II/IV.
KEY WORDS:	Firearms; mass-shootings; assault weapons; epidemiology.

Increases in firearm-related injuries, particularly mass-shooting related fatalities, in the United States have contributed to a polarizing and sometimes contentious debate over gun ownership and limiting weapons characterized as assault weapons.^{1,2} Despite the increasing sense that there is an epidemic of indiscriminate firearm violence in our schools and public spaces, there is a paucity of public health evidence on the topic. Among a number of recommendations, a federal Assault Weapons Ban (AWB) has been proposed as a way to prevent and control mass shootings in the United States. In this article, we assess evidence for the effectiveness of such a ban in preventing or controlling mass-shooting homicides in the United States.

While mass shootings occur in other industrialized nations, the United States is particularly prone to these crimes. In a recent 30-year period, the United States had double the number of mass-shooting incidents than the next 24 industrialized nations combined.³ Any public perception of recent increases in the number of these events is borne out by analysis of available data.⁴ By one measure, there have been more deaths due to mass shootings in the United States in the past 18 years than in the entire 20th century.⁵ While there is some debate about the role of mental illness in mass shootings,^{6–8} many high-profile recent mass shootings (Aurora, CO; Roseburg, OR; San Bernadino, CA; Newtown, CT; Orlando; Las Vegas; Sutherland Springs, TX) have been characterized by the use of semiautomatic assault rifles,⁹ leading some to advocate for restrictions on the manufacture and sale of these weapons.

While survey results indicate that researchers in criminology, law and public health rank an assault weapons ban as one of the most effective measures to prevent mass shootings, and that 67% of the US general population support such a ban,¹⁰ the existing evidence on banning assault weapons is scant and sometimes contradictory. Most evidence is related to the Federal AWB of 1994, which made illegal the manufacture and use by civilians of a defined set of automatic and semiautomatic weapons and large capacity magazines. Formally known as “The Public Safety and Recreational Firearms Use Protection Act”, the AWB was part of the broader “Violent Crime Control and Law Enforcement Act of 1994. The ban lasted 10 years, expiring in 2004 when the US Congress declined to renew it.

In a study soon following the implementation of the 1994 ban, researchers reported a 55% decrease in the recovery of assault weapons by the Baltimore City Police in the first 6 months of 1995, indicating a statistically significant 29 fewer such firearms in the population.¹¹ In a 2009 study based on ICD9 external cause of injury codes for patients younger than 18 years in the United States, 11 states with assault and large-capacity magazine bans, as well as other firearm laws, were compared with 33 states without such restrictions. The incidence of firearm injuries per 1,000 total traumatic injuries was significantly lower in states with restrictive laws, 2.2 compared with 5.9.¹² In contrast, a comprehensive 2001 evaluation of the AWB itself concluded that there was “no evidence of reductions in multiple-victim gun homicides or multiple-gunshot wound victimizations”. The authors cautioned their results should be “interpreted cautiously” because of the short period since the ban’s inception, and that future assessments were warranted.¹³ More recent studies, while not primarily addressing the US Federal AWB have found results generally consistent with its effectiveness in preventing mass-shooting fatalities.^{14,15}

We believe sufficient time has passed and enough data have accumulated to treat the period from 1994 to 2004 as a naturalistic pre-post observational comparison period for the association of the AWB with changes in mass-shootings in the United States. Because there is no authoritative source or registry, or even a widely agreed upon definition for these incidents, we obtained data from three open source references and restricted our analyses to only those incidents confirmed by all three sources. We assess evidence for the potential effectiveness of such a ban in preventing and controlling mass-shooting homicides in the United States. We hypothesized that the implementation of the Federal AWB contributed to a reduction in mass shooting deaths as measured by the number and rate of mass shooting fatalities before, during, and after the federal AWB.

METHODS

Mass incident shooting data were obtained from three independent, well-documented and referenced online sources: Mother Jones Magazine, the Los Angeles Times and Stanford

University.^{16–18} These sources have each been the basis for a number of previous studies.^{19–26} Data from the three online open-source references were combined. Analyses were restricted to incidents reported by all three sources. Entries were further restricted to those for which four or more fatalities (not including the shooter) were reported, which meets the strictest definition of mass shootings as defined by the Federal Bureau of Investigation.^{27,28} Yearly homicide data were obtained from the US Centers for Disease Control and Prevention Web-based Injury Statistics Query and Reporting System (WISQARS) an online database of fatal and nonfatal injury.²⁹ Because 2017 data were not yet available in the WISQARS system, data for firearm-related homicide data for that year were obtained from a separate online source.³⁰

A variable was created to indicate the 1994 to 2004 period as the federal ban period. We attempted to identify incidents involving assault weapons. An assault weapon has been defined as semiautomatic rifle that incorporates military-style features such as pistol grips, folding stocks, and high-capacity detachable magazines.³¹ In this study, assault weapons were identified using the text search terms “AK,” “AR,” “MCX,” “assault,” “assault,” or “semiautomatic” in a text field for weapon details. These terms were based on descriptions of the federal assault ban legislative language.³² The total number of mass shooting fatalities and injuries were aggregated by year and merged with the yearly firearm homicide data.

The rate of mass shooting fatalities per 10,000 firearm homicide deaths was calculated. For the years covered by the data sources, we calculated (1) the total and yearly number of mass-shooting incidents that met the strictest criteria and were confirmed by all three sources, (2) the number of all weapon (assault and nonassault weapons) mass-shooting fatalities, and (3) the case-fatality ratio of all-weapon mass-shooting fatalities per 100 total mass-shooting fatalities and injuries. The yearly case-fatality ratio was plotted with overlying Loess line for trend and standard error limits. We also plotted the yearly rate of mass shooting fatalities per 10,000 firearm-related homicides with an overlying simple linear model with year as the predictor for (1) the total period, and (2) for preban, ban, and postban periods.

We evaluated assumptions of normality and linearity of the data using graphical methods such as density plots and Q-Q normal plots as well as summary statistics. We tested the hypothesis that the federal ban period was associated with a decrease in the number and rate of mass-shooting fatalities in the United States with a multiple linear regression model, with total homicide-based mass-shooting fatality rate as the outcome variable, a dichotomous indicator variable for the federal ban period as the predictor variable, and year as a control variable for trend over time. We calculated the relative risk of mass shooting fatalities during the federal ban period compared to nonban periods by using the “epitab” function of the R “epitools” package. This estimate is based on the ratio of the fatality rate during the ban period divided by the fatality rate during the nonban period. All results are presented with two-sided *p* values with a significance level of 0.05 and/or 95% confidence intervals (CI). We conducted subgroup analysis with data restricted to incidents in which an assault-type weapon was explicitly noted.

We conducted analyses to test the sensitivity of our results to the choice of denominator with linear regression models controlling

for trend with yearly rates based on (1) CDC WISQARS homicide data ending in 2016, (2) extrapolated CDC WISQARS homicide data for 2017, and (3) population denominator-based rates. We tested the robustness of our underlying modeling assumptions with an alternate mixed-effects generalized linear model of yearly mass shooting fatality counts with an observation-level random effect to account for overdispersion.

The study was determined to be exempt as nonidentifiable data. The study data and analytic code are available for download at <http://www.injuryepi.org/styled-2/>.

RESULTS

The three data sources listed incidents ranging in number from 51 (LA Times) to 335 (Stanford) and in dates from 1966 (Stanford) to 2018 (LA Times). There were a total of 51 reported cases of mass shootings between 1981 and 2017 confirmed by all three sources. Forty-four of these incidents met the strictest criteria for mass shootings (4 or more killed), totaling 501 all-weapon fatalities. In total 1,460 persons were injured or killed over the 37-year period, for a total case-fatality ratio of 34.3% (95% CI, 31.9–36.8). The overall rate of mass shooting fatalities per 10,000 firearm-related homicides was 10.2 (95% CI, 9.4–11.2). There was an increase in the all-weapon yearly number of mass-shooting fatalities in the United States during the study period, (Fig. 1) and evidence of a decrease in case fatality in the post-2010 period (Fig. 2). Incidents in which weapons were characterized as assault rifles accounted for 430 or 85.8% of mass-shooting fatalities (95% CI, 82.8–88.9). Weapons characterized as assault rifles accounted for *all* mass-shooting fatalities in 15 (62.5%) of the 24 (95% CI, 42.6–78.9) years for which a mass-shooting incident was reported, accounting for a total of 230 fatalities in those years.

Between 1981 and 2017, mass shootings in the United States accounted for an increasing proportion of all firearm-related homicides, with increment in year accounting for nearly 32% of the overall variance in the data. During the years in which the AWB was in effect, this slope decreased, with an increase in the slope of yearly mass-shooting homicides in the postban period

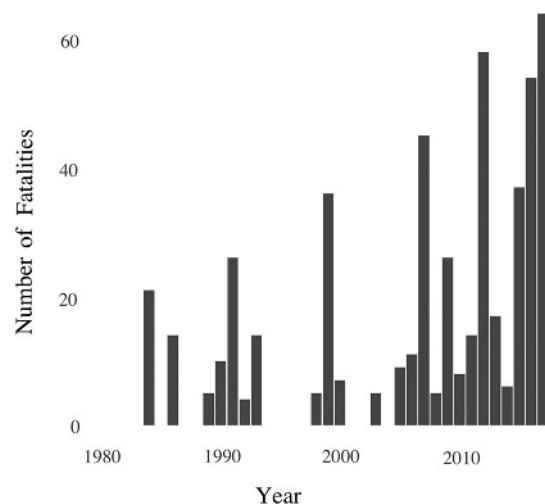


Figure 1. Mass shooting deaths. United States 1981–2017.

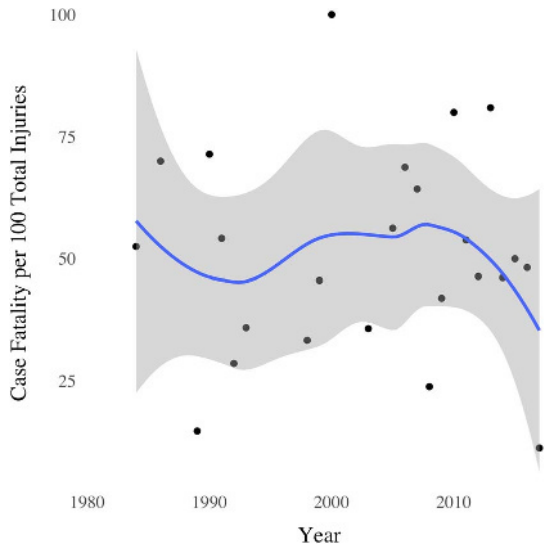


Figure 2. Case fatality per 100 total mass-shooting injuries with loess smoothing line for trend and standard error bounds. United States 1981–2017.

(Fig. 3). A similar pattern was evident in data restricted to those incidents characterized as involving assault weapons (Fig. 4).

In a linear regression model controlling for yearly trend, the federal ban period was associated with a statistically significant 9 fewer mass shooting–related deaths per 10,000 firearm homicides per year (Table 1). The model indicated that year and federal ban period alone accounted for nearly 40% of all the variation in the data (adjusted $R^2 = 0.37$). A subanalysis

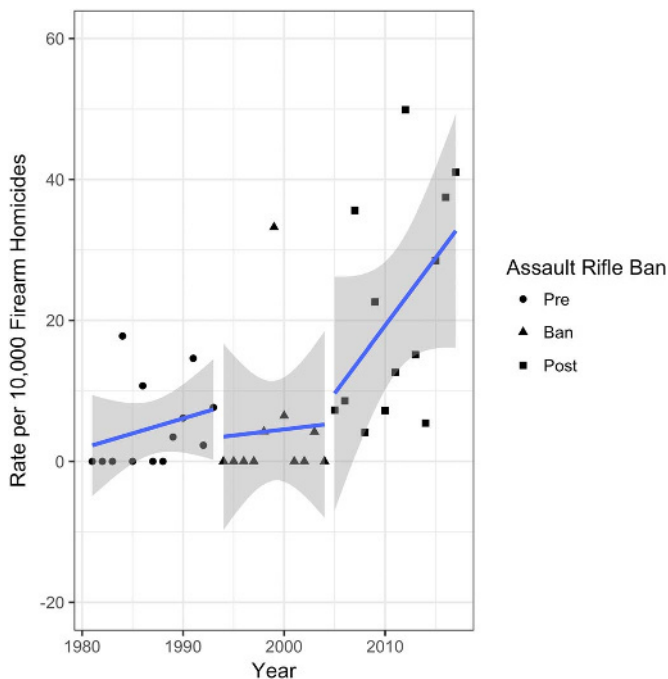


Figure 3. Mass shooting deaths per 10,000 firearm-related homicides with linear trends for preban, ban, and postban periods. United States 1981–2017.

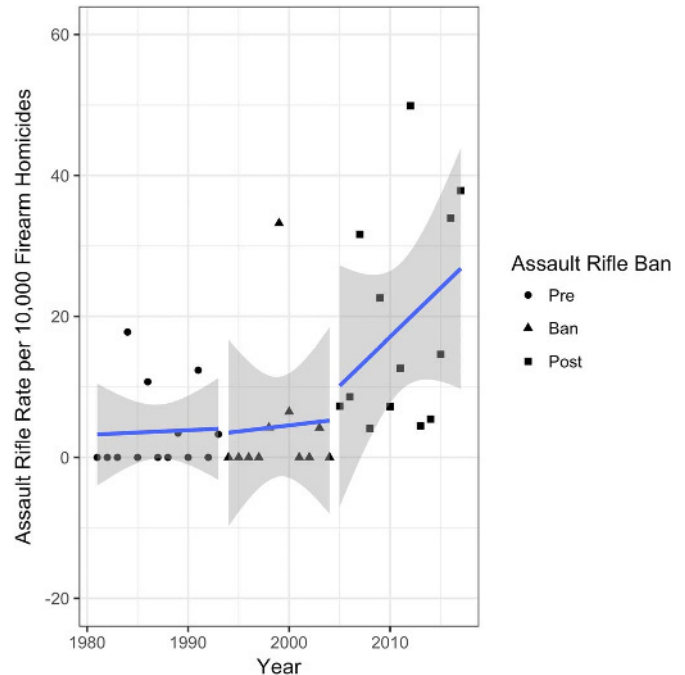


Figure 4. Mass-shooting shooting deaths per 10,000 firearm-related homicides restricted to incidents involving assault weapons with linear trends for preban, ban, and postban periods. United States 1981–2017.

restricted to just those incidents characterized by the use of an assault weapon indicated that seven preventable deaths during the ban period were due to assault weapons alone (Table 2).

The risk of mass shooting fatalities during the federal ban period was 53 per 140,515 total firearm homicides compared with 448 per 348,528 during the nonban periods, for a risk ratio of 0.30 (95% CI, 0.22–0.39). The calculated risk ratio for the association of the federal ban period with mass-shooting fatalities as a proportion of all firearm-related homicides was 0.29 (95% CI, 0.22–0.29), indicating that mass shooting fatalities were 70% less likely to occur during the federal ban period.

The results of our sensitivity analyses were consistent with our main analyses for total mass shooting fatalities. In a linear regression analysis controlling for yearly trend and restricted to the period ending in 2016 using just CDC WISQARS homicide data as the denominator, the effect of ban period was associated with a statistically significant eight fewer mass shooting related deaths per 10,000 firearm homicides per year (coefficient for ban period, 8.0; $p = 0.05$). In a similar model using extrapolated CDC WISQARS homicide data for 2017 instead of Online Gun Violence Archive data as the denominator, the effect of ban

TABLE 1. Linear Regression Effect of 1994–2004 Federal Assault Weapon Ban on Mass-Shooting Deaths per 10,000 Firearm Homicides, United States, 1981–2017

Variable	Estimate	Std. Error	t	p
(Intercept)	-1409.4	333.0	-4.2	0.0002
Year	0.7	0.2	4.3	0.0001
Ban Period	-8.6	3.9	-2.2	0.03

TABLE 2. Linear Regression Effect of 1994–2004 Federal Assault Weapon Ban on Mass-Shooting Deaths Characterized by Use of Assault Weapon per 10,000 Firearm Homicides, United States, 1981–2017

Variable	Estimate	Std. Error	t	p
(Intercept)	-1219.7	333.9	-3.7	0.0009
Year	0.6	0.2	3.7	0.0008
Ban	-6.7	3.9	-1.7	0.09

period was associated with a statistically significant 9 fewer mass shooting related deaths per 10,000 firearm homicides per year (coefficient for ban period, 8.6; $p = 0.03$). A model based on the total yearly US population as the denominator, the effect of ban period was associated with a statistically significant 0.4 fewer mass shooting related deaths per 10,000,000 population (coefficient for ban period, 0.4; $p = 0.02$).

The results of a mixed-effects generalized linear Poisson model of yearly mass shooting fatality counts with an observation-level random effect to account for overdispersion were very similar whether the offset variable was the number of total firearm deaths or the population size. In either case, the assault weapons ban period was associated with an approximately 85% reduction in mass shooting fatalities (Table 3).

DISCUSSION

Recently, 75% of members of the American College of Surgeons Committee on Trauma endorsed restrictions to “civilian access to assault rifles (magazine fed, semiautomatic, i.e., AR-15),”³³ and 76% of the Board of Governors were in favor of a limit to “... civilian access to ammunition designed for military or law enforcement use (that is, armor piercing, large magazine capacity).”³⁴ In 2015, the American College of Surgeons joined seven of the largest most prestigious professional health organizations in the United States and the American Bar Association to call for “restricting the manufacture and sale of military-style assault weapons and large-capacity magazines for civilian use.”³⁵ This analysis adds evidence to support these recommendations.

No observational epidemiologic study can answer the question whether the 1994 US federal assault ban was causally related to preventing mass-shooting homicides. However, this study adds to the evidence by narrowly focusing our question on the potential effect of a national assault weapon ban on mass shootings as measured through the lens of case fatality. While the data are amenable to a number of additional analyses, such as stratification by location (e.g. school vs. nonschool) or by characterization of large-capacity magazines versus non large-capacity magazine, we chose to focus only on year of occurrence and total number of fatalities. In this way, we relied on the least subjective aspects of the published reports. We believe our results support the conclusion that the ban period was associated with fewer overall mass-shooting homicides. These results are also consistent with a similar study of the effect of a 1996 ban on assault type weapons in Australia after which mass-shooting fatalities dropped to zero.³⁶

While the absolute effects of our regression analyses appears modest (7 to 9 fewer deaths per 10,000 firearm-homicides),

it must be interpreted in the context of the overall number of such fatalities, which ranges from none to 60 in any given year in our data. However, if our linear regression estimate of 9 fewer mass shooting-related deaths per 10,000 homicides is correct, an assault weapons ban would have prevented 314 of the 448 or 70% of the mass shooting deaths during the nonban periods under study. Notably, this estimate is roughly consistent with our odds ratio estimate and Poisson model results.

Our results add to the documentation that mass shooting-related homicides are indeed increasing, most rapidly in the postban period, and that these incidents are frequently associated with weapons characterized as assault rifles by the language of the 1994 AWB. We did not find an increase in the case fatality ratio of mass-shooting deaths to mass-shooting injuries. This might at first seem counterintuitive and paradoxical. The destructive effect of these weapons is unequivocal. They are engineered to cause maximum tissue damage rapidly to the greatest number of targets. However, it may be that the use of these kinds of weapons results in indiscriminate injury with additional rounds more likely to injure more people increasing the denominator in a case-fatality ratio. By contrast, the use of nonassault weapons may result in more precise targeting of victims. It is also possible that improvements in trauma care are driving down case fatality.³⁷ Also, it is worth noting that in absolute terms, there were many more fatalities outside the ban period and that survivable injury comes with its own physical, emotional, and economic costs, which have been estimated at US \$32,237 per hospital admission.³⁸

Despite US federal funding restrictions on firearm-related research dating to 1996,^{39,40} there is a small but growing number of analyses of mass shooting violence in the United States. Many articles have focused on the mental health aspects of these incidents,^{41–43} or on social effects like increased firearm acquisition following mass shootings.^{44,45} However, fewer studies have taken a strictly public health or clinical approach. Among these, an autopsy-based study of the incidence and severity of mass-shooting casualties concluded the wound patterns differed sufficiently from combat injuries to require new management strategies, indicating there is much to be learned from a systematic epidemiological perspective.⁴⁶ Recently, there have been calls to remove such funding restrictions from both academics and elected officials from across the political spectrum.^{47,48}

Our choice of data and analytic approach may reasonably be debated. We chose to base our analyses on the yearly rate of mass shooting fatalities per 10,000 overall firearm homicides. This is not a population-based risk estimate, but is in fact a risk as commonly used in the epidemiologic literature which is essentially a probability statement, that is, the number of events

TABLE 3. Exponentiated Coefficients Generalized Linear Poisson Model

Variable	Homicide Offset		Population Offset	
	Estimate	95% CI	Estimate	95% CI
Year	0.6	0.2	3.7	0.0008
Ban	-6.7	3.9	-1.7	0.09

Effect of 1994–2004 federal assault weapon ban on mass-shooting death counts. United States, 1981–20017.

that occurred over the number of times that event could occur. It is the risk of a homicide occurring as a result of a mass shooting. It may be considered a strong assumption to build mass shooting death rates based on the overall firearm homicide rate. The demographics of most homicide victims may differ appreciably from those of mass shooting victims. We selected this approach from among a number of imperfect potential denominators, believing that basing the rates on the number of firearm-homicides partly controls for secular trends in overall homicides and firearm availability. Our sensitivity analyses indicate that our results were robust to most any choice of denominator. We chose linear regression as our primary model because it was straightforward, accessible to most readers, accounted for linear trends in the data, and returned results in the metric in which we were most interested, that is, changes in the rate of fatalities. Our comparative Poisson model results were essentially consistent with the primary model.

These analyses are subject to a number of additional limitations and caveats, primary among which is that there is no authoritative source of data on mass shooting, and any one source may be biased and incomplete. It was for this reason that we chose to combine three independent sources of data, each with its own strengths and weaknesses, and base our analyses only on those numbers that were verified by all three sources. We further restricted our analyses to only the number of fatalities and the year in which the incident occurred, and to the strictest definition of mass shootings as defined by the Federal Bureau of Investigation.^{27,28} Even with this approach, the data remain imprecise and subject to differing definitions. We attempted to compensate for this by framing our questions as precisely as possible, following the advice of the scientist and statistician John Tukey to pursue, "... an approximate answer to the right question ...(rather) than the exact answer to the wrong question..."

In this study, we failed to falsify the hypothesis that the AWB was associated with a decrease in mass shooting fatalities in the United States. However, it is important to note that our model did not include important and potentially confounding factors like state-level and local differences in assault weapon laws following the sun-downing of the federal AWB. Additional analyses including such variables and using approaches like propensity score matching and regression discontinuity⁴⁹ with data further aggregated to state and local levels are necessary to test the strength and consistency of our results.

Federally referenced denominator data were not available for the last year of the study. We chose to use data from the Online Gun Violence Archive to account for firearm homicide in 2017. This resource is a nonpartisan not-for-profit group founded and maintained by a retired computer systems analyst and gun advocate.⁵⁰ The alternative would have been to extrapolate from the CDC data, but the 15,593 firearm-related homicides reported by the Online Gun Violence Archive in 2017 was more consistent with the 14,415 reported by CDC in 2016 compared with the 11,599 predicted by an extrapolation and returned more conservative estimates of the increased rate of recent mass shootings. We note there were many years in which the number of mass-shooting fatalities is listed as zero. There were, in fact, fatalities and incidents in those years that could meet a definition of mass shooting, but they were not reported by all three sources, or did not meet the strict criteria we set for this analysis.

An assault weapon ban is not a panacea, nor do our analyses indicate that an assault weapon ban will result in fewer overall firearm-related homicides. It is important to recognize that suicides make up the majority of firearm-related deaths in the United States, accounting for 60.7% of 36,252 deaths from firearms in 2015.⁵¹ However, while this is a critically important issue in its own right, suicides differ fundamentally from mass-shootings, and are unlikely to be affected by an assault weapons ban. Also, compared with the 501 mass-shooting fatalities we counted, there were 489,043 firearm-related homicides in the United States. Public health efforts should be directed at reducing all gun violence and must be multipronged, including targeted initiatives to address mental illness and reducing access to weapons in those with a propensity for violence. However, taken in the context of the increase in mass shootings in the United States, these results support the conclusion that the federal AWB of 1994 to 2004 was effective in reducing mass shooting-related homicides in the United States, and we believe our results support a re-institution of the 1994 federal assault weapons ban as a way to prevent and control mass shooting fatalities in the United States.

DISCLOSURE

The authors have no conflicts of interest to declare. There are no federal or nonfederal funding sources associated with this study.

REFERENCES

1. Wolchover N. Why gun control is so contentious in the US. *LiveScience*. 20 July 2012 <https://www.livescience.com/21741-gun-control-second-amendment.html>. Accessed 10 August 2018.
2. Bond S. Students take the lead in US gun control debate. *Financial Times*. 23 February 2018. <https://www.ft.com/content/9341021e-1818-11e8-9376-4a6390addb44>. Accessed 10 August 2018.
3. Lemieux F. 6 things to know about mass shootings in America. *Scientific American*. 13 June 2016. <https://www.scientificamerican.com/article/6-things-to-know-about-mass-shootings-in-america/>. Accessed 6 June 2018.
4. Webster DW. The true effect of mass shootings on Americans. *Annals of Internal Medicine*. 16 May 2017. <http://annals.org/aim/fullarticle/2624992/true-effect-mass-shootings-americans>. Accessed 6 June 2018.
5. Katsiyannis A, Whitford DK, Ennis RB. Historical examination of United States intentional mass school shootings in the 20th and 21st centuries: implications for students, schools, and society. *Child Fam Stud*. (19 April 2018). <https://doi.org/10.1007/s10826-018-1096-2>.
6. Follman M. Mass shootings: maybe what we need is a better mental-health policy. *Mother Jones*. 9 November 2012. <https://www.motherjones.com/politics/2012/11/jared-loughner-mass-shootings-mental-illness/>. Accessed 11 August 2018.
7. Carey B. "Are mass murderers insane? Usually not, researchers say". *New York Times*. 8 November 2017. <https://www.nytimes.com/2017/11/08/health/mass-murderers-mental-illness.html>. Accessed 11 August 2018.
8. Duwe G, Rocque M. Actually, there is a clear link between mass shootings and mental illness. *Los Angeles Times*. 23 February 2018. <http://www.latimes.com/opinion/op-ed/la-oe-duwe-rocque-mass-shootings-mental-illness-20180223-story.html>. Accessed 11 August 2018.
9. Gillin J, Greenberg J, Jacobson L, Valverde M. The facts on mass shootings in the United States. *Politifact*. 8 November 2017. <http://www.politifact.com/truth-o-meter/article/2017/nov/08/facts-mass-shootings-united-states/>. Accessed 6 June 2018.
10. Sanger-Katz M, Bui Q. How to reduce mass shooting deaths? Experts rank gun laws. *New York Times*. 5 October 2017. <https://www.nytimes.com/interactive/2017/10/05/upshot/how-to-reduce-mass-shooting-deaths-experts-say-these-gun-laws-could-help.html>. Accessed 6 June 2018.

11. Weil DS, Knox RC. The Maryland ban on the sale of assault pistols and high-capacity magazines: estimating the impact in Baltimore. *Am J Public Health*. 1997;87(2):297–298.
12. Safavi A, Rhee P, Pandit V, Kulvatunyou N, Tang A, Aziz H, Green D, O’Keeffe T, Vercauteren G, Friese RS, et al. Children are safer in states with strict firearm laws: a national inpatient sample study. *J Trauma Acute Care Surg*. 2014;76(1):146–150; discussion 150–1.
13. Koper CS, Roth JA. The impact of the 1994 Federal Assault Weapon ban on gun violence outcomes: an assessment of multiple outcome measures and some lessons for policy evaluation. *J Quant Criminol*. 2001; Vol. 17, No. 1.
14. Gius M. The impact of state and federal assault weapons bans on public mass shootings. *Applied Economics Letters*. 2015;22(4):281–284.
15. Lemieux F, Bricknell S, Prenzler T. Mass shootings in Australia and the United States, 1981–2013. *Journal of Criminological Research, Policy and Practice*. 1(3):131–142.
16. Follman M, Aronsen G, Pan D, Caldwell M. US mass shootings, 1982–2018: data from mother Jones’ investigation. *Mother Jones*. 2012; <https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/>. Accessed 3 June 2018.
17. The Los Angeles times staff. “Deadliest U.S. mass shootings”, 1984–2017. *Los Angeles Times*. Oct 1, 2017, timelines latimes.com/deadliest-shooting-rampages/. Accessed 29 August 2018.
18. Stanford mass shootings in America, courtesy of the Stanford Geospatial Center and Stanford libraries. 2016. Available at: <https://library.stanford.edu/projects/mass-shootings-america>. Accessed 29 August 2018.
19. Fox JA, Levin J, Fridel EE. *Extreme Killing: Understanding Serial and Mass Murder*. Sage Publications; 2018.
20. Dillon L. *Mass Shootings in the U.S.: An Exploratory Study of the Trends from 1982–2012*. PhD thesis; 2014.
21. Lankford A. Public mass shooters and firearms: a cross-national study of 171 countries. *Violence Vict*. 2016;31(2):187.
22. Lowe SR, Galea S. The mental health consequences of mass shootings. *Trauma Violence Abuse*. 2017;18(1):62–82.
23. Fox JA, Fridel EE. The tenuous connections involving mass shootings, mental illness, and gun laws. *Violence Gend*. 2016;3(1):14–19.
24. Luca M, Malhotra DK, Poliquin C. The impact of mass shootings on gun policy. *Harvard Business School NOM Unit Working Paper No.* 2016;1:16–126.
25. Buchholtz LK. Command-directed mental health evaluations and mental health related discharges from the U.S. military: an argument for command authority. *J Health Care Finance*. 2016.
26. Bradley K. Code blue: the expanding field of tactical/battlefield medicine. *J Law Enforcement*. 2017;6(2).
27. Smart R. Mass shootings: definitions and trends. RAND Corporation. <https://www.rand.org/research/gun-policy/analysis/supplementary/mass-shootings.html>. Accessed 2 June 2018.
28. Krouse WJ, Richardson DJ. *Mass Murder with Firearms: Incidents and Victims, 1999–2013*. Washington, D.C.: Congressional Research Service, R44126 2015.
29. Centers for Disease Control and Prevention. CDC’s WISQARS (web-based injury statistics query and reporting system). <https://www.cdc.gov/injury/wisqars/fatal.html>. Accessed 12 February 2018.
30. The online gun violence archive: past summary ledgers. <http://www.gunviolencearchive.org/past-tolls>. Accessed 12 February 2018.
31. Studdert DM, Donohue JJ, Mello MM. Testing the immunity of the firearm industry to tort litigation. *JAMA Intern Med*. 2017;177(1):102–105.
32. Public Safety and Recreational Firearms Act. PL. 103-322, Title XI. 103rd Cong. (1994).
33. Kuhls DA, Campbell BT, Burke PA, Allee L, Hink A, Letton RW, Masiakos PT, Coburn M, Alvi M, Lerer TJ, et al. Survey of American College of Surgeons Committee on trauma members on firearm injury: consensus and opportunities. *J Trauma Acute Care Surg*. 2017;82(5):877–886.
34. Puls M, Kuhls D, Campbell B, Burke P, Michelassi F, Stewart R. Survey of the American College of Surgeons Board of governors on firearm injury prevention: consensus and opportunities. *Bull Am Coll Surg*. 2017; 102(10):30–36.
35. Weinberger SE, Hoyt DB, Lawrence HC 3rd, Levin S, Henley DE, Alden ER, Wilkerson D, Benjamin GC, Hubbard WC. Firearm-related injury and death in the U.S.: a call to action from 8 health professional organizations and the American Bar Association. *Ann Intern Med*. 2015;162(7):513–516.
36. Chapman S, Alpers P, Jones M. Association between gun law reforms and intentional firearm deaths in Australia, 1979–2013. *JAMA*. 2016;316(3): 291–299.
37. DiMaggio C, Ayoung-Chee P, Shinseki M, Wilson C, Marshall G, Lee DC, Wall S, Maulana S, Leon Pachter H, Frangos S. Traumatic injury in the U.S.: in-patient epidemiology 2000–2011. *Injury*. 2016;47(7):1393–1403.
38. Peek-Asa C, Butcher B, Cavanaugh JE. Cost of hospitalization for firearm injuries by firearm type, intent, and payer in the U.S. *Inj Epidemiol*. 2017; 4(1):20.
39. Wexler L. “gun shy: how a lack of funds translates to inadequate research on gun violence in America”. *Hopkins Bloomberg Public Health Fall*. 2017; <https://magazine.jhsph.edu/2017/fall/features/cassandra-crifasi-hopkins-moderate-gun-owner-gun-policy-researcher/how-the-dickey-amendment-affects-gun-violence-research.html>. Access 5 June 2018.
40. Greenberg J. Spending bill’s gun research line: does it nullify dickey amendment? *Politifact*. 27 March 2018. <http://www.politifact.com/truth-o-meter/article/2018/mar/27/spending-bills-gun-research-line-does-it-matter/>. Accessed 6 June 2018.
41. Pinals DA, Anacker L. Mental illness and firearms: legal context and clinical approaches. *Psychiatr Clin North Am*. 2016;39(4):611–621.
42. Leiner M, De la Vega I, Johansson B. Deadly mass shootings, mental health, and policies and regulations: what we are obligated to do!. *Front Pediatr*. 2018;6:99.
43. Swartz MS, Bhattacharya S, Robertson AG, Swanson JW. Involuntary outpatient commitment and the elusive pursuit of violence prevention. *Can J Psychiatry*. 2017;62(2):102–108.
44. Studdert DM, Zhang Y, Rodden JA, Hyndman RJ, Wintemute GJ. Handgun acquisitions in California after two mass shootings. *Ann Intern Med*. 2017; 166(10):698–706.
45. Stroebe W, Leander NP, Kruglanski AW. The impact of the Orlando mass shooting on fear of victimization and gun-purchasing intentions: not what one might expect. *PLoS One*. 2017;12(8):e0182408.
46. Smith ER, Shapiro G, Sarani B. The profile of wounding in civilian public mass shooting fatalities. *J Trauma Acute Care Surg*. 2016;81(1):86–92.
47. Behrman P, Redding CA, Raja S, Newton T, Beharie N, Printz D. Society of Behavioral Medicine (SBM) position statement: restore CDC funding for firearms and gun violence prevention research. *Transl Behav Med*. 2018.
48. Wong S. “GOP chairman: congress should rethink CDC ban on gun violence research”. *The Hill*. 15 February 2018 <http://thehill.com/homenews/house/374149-gop-chairman-congress-should-rethink-cdc-ban-on-gun-violence-research>. Accessed 5 June 2018.
49. Basu S, Meghani A, Siddiqi A. Evaluating the health impact of large-scale public policy changes: classical and novel approaches. *Annu Rev Public Health*. 2017;38:351–370.
50. Drange M. The Kentucky gun owner who developed his own count of gun violence in the US. *The Guardian*. 23 April 2016. <https://www.theguardian.com/world/2016/apr/23/kentucky-gun-owner-gun-violence-archive-mark-bryant>. Accessed 5 June 2018.
51. Murphy SL, Xu J, Kochanek KD, Curtin SA, Elizabeth Arias E. *National Vital Statistics Reports*. Volume 66, Number 6 November 27, 2017. Deaths: Final Data for 2015. Centers for Disease Control and Prevention.

DISCUSSION

Ernest E. "Gene" Moore, MD (Denver, Colorado): Thank you, Dr. Rotondo and Dr. Reilly. Can I please have the discussion video. [sounds of a gun shooting]. Well, that is the AR15 rifle. Literally, 30 potential lethal shots delivered within 10 seconds. Is this safe to have in our society?

I congratulate Dr. DiMaggio and his colleagues from NYU for their superb presentation on a very timely issue. The AAST has had a long-term interest in reducing gun violence in the United States, and has recently published our 14-point approach. Access to assault rifles is one of them. At a reductionist level, mass shootings are the net result of (1) a deranged person intending to kill random individuals in a populated area, and (2) the use of an assault rifle. Since we seem to be unable to identify

the active shooter preemptively, we are left with the alternative solution of eliminating the weapon.

The presentation today provides evidence that a federal assault weapon ban can reduce mass shootings. According to our recent national trauma surgeon surveys, three-fourths of us in the audience, including me, would like to believe the analysis; but I think we need to consider some of the potential limitations.

Many of these issues relate to the fact that research support for gun violence control in the United States remains frustratingly suppressed and fundamentally inadequate. The general lack of information, low quality of data, and need to merge data sets from diverse sources – medical, coroner, police, legal, and behavioral – compounded by scarce funding and public controversy, undermine research to inform policy and enlighten the public. The fact that you had to compare three open-access databases to be certain that the reported mass shootings occurred underscores this deficiency.

Furthermore, there is no definition of a mass shooting, although you employed perhaps the most acceptable at the moment – the FBI's definition. Could you explain for us the rationale for this definition?

You present an analysis of 44 events with four or more deaths, including the shooter, from 1981 to 2017 – a 36-year period; whereas, others suggest a much higher incidence, such as Klaveras, who reported 69 shootings of six or more over the past 27 years.

Identifying all known mass shootings per year during a study period would be useful to appreciate the overall trends, as your data somewhat understates the magnitude of mass shootings in the United States.

You employed the Gun Violence Archive to estimate homicides in 2017. Why did you not use this source for mass shootings? The Archive has reported an alarming 261 mass shootings – defined as six or more shot – thus far in 2018. Nonetheless, in the sample you studied, assault rifles accounted for greater than 85 percent of the fatalities, and this is the key issue.

You have evaluated the impact of the federal assault rifle ban by analyzing the rate of mass shootings per 10,000 firearm homicide deaths per year to adjust for confounders. This would assume that the factors influencing mass shootings are the same as those for homicides, which seems very unlikely. You have indicated that you analyzed mass-shooting fatalities per population per year; perhaps you could elaborate more about this analysis.

Another confounder as acknowledged in the presentation is the impact of individual state limitations on magazine capacity. The first state to enforce these limitations was New Jersey in 1990, and now at least eight states and Washington, D.C., have these restrictions in effect. How can we distinguish the effects of this policy? And could this be a potential bridge to ultimately reestablish a national assault rifle ban?

You have also calculated the case fatality of all weapons in mass shootings per 100 total shootings, finding a decrease since 2010. While you conjecture this may be due to indiscriminate injury from assault rifles or possibly attributed to better trauma care, I am uncertain how this is relevant to the issue of banning assault rifles. The Las Vegas shooting is a cogent example of how these data may be misleading.

Finally, there is the issue of so-called falsification that could be addressed by examining other causes of trauma mortality during this time period.

In sum, this study adds to overwhelming evidence that assault rifles are an essential component in the dramatic escalation of mass shootings in the United States. While the scientific data to support a federal ban on civilian assault rifles is imperfect due to inadequate research support, I submit collectively the existing information argues strongly for enactment of this measure, and compliment the authors for their timely contribution.

Sheldon H. Teperman, MD (Bronx, New York): Dr. DiMaggio, your home institution, Bellevue, plays a seminal role in the trauma center safety of our nation.

In fact, right now, your trauma medical director is not present with us, but he is at home on guard for the U.N. General Assembly. But in New York, we don't see long-gun injuries. New York has the Safe Act, and there is an assault weapons ban. So why is it so important to America's trauma center – Bellevue – that we see a national ban on assault rifles?

Charles E. Lucas, MD (Detroit, Michigan): Thank you for your nice presentation. How many of these incidents occurred in an inner-city environment, where most of the victims that we treat have received multiple wounds which were purposely inflicted in order to compete competitively for the distribution of heroin and other drugs? Also, how many of the assailants were African-American?

Martin A. Croce, MD (Memphis, Tennessee): Thank you. I want to commend the authors for an excellent study, and really, not so much to ask any questions but I rise to put out a plea to the membership that this issue is a public health problem.

This is not a right versus left problem, this is not a Second Amendment problem. This is a public health problem.

And to quote Wayne Meredith at one of the recent Board meetings, "Our primary goal is to reduce the number of bullet holes in people." So I implore the Membership to correct this dearth of research that is going on about gun violence in order to promote a public health approach, so that we can reduce the number of bullet holes in people.

Deborah A. Kuhls, MD (Las Vegas, Nevada): And to carry on that thought, I would urge the authors to incorporate the public health data from the CDC when it is available, because part of the methodological issues for this paper is that one data set was used for a certain period of time.

But for the last year, the CDC data was not used because it was not available, so I would urge you to not only do that analysis, but I would also urge the Journal of Trauma to consider an update to that article when that is available. Thank you.

Charles DiMaggio, MPH, PhD (New York, New York): Thank you very much for all these comments and questions.

Dr. Moore, so with regard to your observation about the reductionist approach to looking at this particular issue, that puts me in the mind very much of the traditional epidemiologic triad of agent, host, and environment, and if you break one link in that connection, you can break the transmission. In this case, we could call assault weapons one link, whether it's agent or host, we can decide.

With regards to the rationale for the definition, I think it's reflective of the lack of research in this area.

A case definition is an essential and critical first step in any epidemiologic investigation, and you can see that we are barely there. I think the FBI definition makes sense, I think it's the oldest one, I think it's informed by expert consensus.

And I think all the other definitions are based in some form on that, which is why we chose it. And I would urge that if we are going to be doing this research going forward, probably it would be best if we all had the consensus that that be the definition.

Why did we not use the Gun Violence Archive to estimate some of these results, and why are our numbers so much smaller than some of the other numbers? I have to agree, our numbers are very much an under-count.

We restricted our analysis to these three databases. And so the limiting factor was the one database. And I can tell you it was the LA Times – they had the fewest number. And if it wasn't in the LA Times, then the other databases didn't contribute to this data set.

We felt that the important aspect of this particular study was to demonstrate the relative effects, merits or associations with the assault weapon ban as opposed to documenting the absolute numbers.

So the Gun Archive, for example, defines mass shootings as four or more deaths or injuries. That really raises the number of deaths that can be included. We didn't include it, but I think going forward we absolutely should.

With regard to the analysis using population denominators, we agree, actually, that gun homicides are an imperfect denominator. We also felt that population was an imperfect denominator. And again, as we keep on circling around, it has to do with the data in this case.

We did feel that gun homicides captured something about gun availability and criminality in the United States, although homicides themselves differ very much from these mass shooting fatalities.

We do note that our population-based results essentially mirrored the gun homicide results, indicating that, at least for the relative effects and benefits of the assault weapons ban, the

results are robust and invariant to the choice of denominator in this case.

Can we distinguish local effects, and could this possibly be a bridge to reestablishing an assault rifle ban? The short answer is yes and yes. We can distinguish local effects.

We took a very broad approach on this particular study as a first pass on the data. But, there are data sources (and even within the data sources we used) where you can tease out local, municipal and state policies.

Also, we can link our data to other sources that have those variables. There are statistical methods available that will not only account for those variables, but also allow us to measure or estimate in some way the contribution of local or regional variation in these policies to the overall effectiveness.

The issue of the case fatality rate is very interesting and challenging. I want to note that there was a paper in JAMA on September 11th – just a couple of weeks ago – looking at mass shooter fatalities, that came essentially to the same conclusion – that there has been this recent decrease.

In our paper, in this write-up, we look at three potential explanations, and one of them is, first of all, it's just a matter of denominator. These are indiscriminate weapons.

You have someone shooting at a large group of people, and there are going to be more injuries and more casualties, and it just inflates the denominator in this case.

The second thing is, the obverse of that, is single-fire weapons, guns, are very personal weapons. They're usually characterized by someone who knows who they want to kill. And finally, we feel that perhaps there may be some improvement by the folks in this room in treating these.

I'm going to close at this point, given the time constraints.

Original Paper

Impact of Firearm Surveillance on Gun Control Policy: Regression Discontinuity Analysis

Lori Post¹, PhD; Maryann Mason¹, PhD; Lauren Nadya Singh¹, MPH; Nicholas P Wleklinski², MD; Charles B Moss³, PhD; Hassan Mohammad¹; Tariq Z Issa², BA; Adesuwa I Akhetuamhen², MD; Cynthia A Brandt⁴, MD, MPH; Sarah B Welch¹, MPH; James Francis Oehmke¹, PhD

¹Buehler Center for Health Policy and Economics, Feinberg School of Medicine, Northwestern University, Chicago, IL, United States

²Feinberg School of Medicine, Northwestern University, Chicago, IL, United States

³Institute of Food and Agricultural Sciences, University of Florida, Gainesville, FL, United States

⁴Yale Center for Medical Informatics, Yale School of Medicine, Yale University, New Haven, CT, United States

Corresponding Author:

Lori Post, PhD

Buehler Center for Health Policy and Economics

Feinberg School of Medicine

Northwestern University

420 E Superior

Chicago, IL, 60611

United States

Phone: 1 203 980 7107

Email: lori.post@northwestern.edu

Abstract

Background: Public mass shootings are a significant public health problem that require ongoing systematic surveillance to test and inform policies that combat gun injuries. Although there is widespread agreement that something needs to be done to stop public mass shootings, opinions on exactly which policies that entails vary, such as the prohibition of assault weapons and large-capacity magazines.

Objective: The aim of this study was to determine if the Federal Assault Weapons Ban (FAWB) (1994-2004) reduced the number of public mass shootings while it was in place.

Methods: We extracted public mass shooting surveillance data from the Violence Project that matched our inclusion criteria of 4 or more fatalities in a public space during a single event. We performed regression discontinuity analysis, taking advantage of the imposition of the FAWB, which included a prohibition on large-capacity magazines in addition to assault weapons. We estimated a regression model of the 5-year moving average number of public mass shootings per year for the period of 1966 to 2019 controlling for population growth and homicides in general, introduced regression discontinuities in the intercept and a time trend for years coincident with the federal legislation (ie, 1994-2004), and also allowed for a differential effect of the homicide rate during this period. We introduced a second set of trend and intercept discontinuities for post-FAWB years to capture the effects of termination of the policy. We used the regression results to predict what would have happened from 1995 to 2019 had there been no FAWB and also to project what would have happened from 2005 onward had it remained in place.

Results: The FAWB resulted in a significant decrease in public mass shootings, number of gun deaths, and number of gun injuries. We estimate that the FAWB prevented 11 public mass shootings during the decade the ban was in place. A continuation of the FAWB would have prevented 30 public mass shootings that killed 339 people and injured an additional 1139 people.

Conclusions: This study demonstrates the utility of public health surveillance on gun violence. Surveillance informs policy on whether a ban on assault weapons and large-capacity magazines reduces public mass shootings. As society searches for effective policies to prevent the next mass shooting, we must consider the overwhelming evidence that bans on assault weapons and/or large-capacity magazines work.

(*JMIR Public Health Surveill* 2021;7(4):e26042) doi: [10.2196/26042](https://doi.org/10.2196/26042)

KEYWORDS

firearm surveillance; assault weapons ban; large-capacity magazines; guns control policy; mass shootings; regression lines of discontinuity

Introduction**Background**

Approximately 44,000 people are killed and an additional 100,000 people are injured by a gun each year in the United States [1,2]. Mass shooting fatalities, as a particular type of gun injury event, account for <1% of all gun deaths [3] and have largely been ignored until recently [4,5]; yet, mass shooting events occur multiple times per year [6]. This information is based on insights from firearm surveillance performed by a variety of researchers, and state and federal agencies on incidence, prevalence, risk factors, injuries, deaths, and precipitating events, similar to the surveillance of infectious diseases such as COVID-19 [7-21]. Teutch and Thacker [22] defined public health surveillance as

the ongoing systematic collection, analysis, and interpretation of health data, essential to the planning, implementation, and evaluation of public health practice, closely integrated to the dissemination of these data to those who need to know and linked to prevention and control.

Not only do surveillance systems generate hypotheses to test but they also provide the data to test them.

The Federal Assault Weapons Ban (FAWB, also known as the Public Safety and Recreational Firearms Use Protection Act) included a ban on the manufacture for civilian use or sale of certain semiautomatic firearms defined as assault weapons as well as certain large-capacity magazines (LCMs). The Act was in effect for 10 years from 1994 until it sunsetted in 2004. Semiautomatic weapons (rapid fire) and assault weapons (second grip plus other features) are distinct; however, the two are often incorrectly conflated as similar [23-26]. Semiautomatic weapons are defined as weapons that automatically load another cartridge into a chamber, preparing the weapon for firing, but requiring the shooter to manually release and press the trigger for each round [23-26]. By contrast, automatic weapons are similarly self-loading, but allow for a shooter to hold the trigger for continuous fire [27]. Furthermore, the FAWB also prohibited certain ammunition magazines that were defined as “large-capacity” cartridges [28] containing more than 10 bullets [29]. These LCMs can feed ammunition to semiautomatic weapons that do not meet the criteria of being considered assault weapons. Furthermore, LCMs are considered one of the most important features of the FAWB as research has found a relationship between bans on LCMs and casualty counts at the state level [30-34]. The 10-year federal ban was signed into law by President Clinton on September 13, 1994 [28].

Firearm surveillance data have been used to test potential policy responses to prevent mass shootings, including the FAWB [32,34-39], Extreme Risk Protection Orders (also known as red flag laws) [40-45], and federal and state LCM bans [31,32,46]. In particular, it seems likely that the FAWB and LCM bans have potential to affect mass shootings because they regulate

weapons and ammunition formats that are designed to enable rapid discharge, which is a key feature in mass shooting incidents [24,47]. Other types of gun deaths may not be responsive to the FAWB or LCM bans. As an example, Extreme Risk Protection Orders or “Red Flag” orders [43,48], which temporarily prohibit at-risk individuals from owning or purchasing firearms, may be effective for preventing firearm suicides or domestic violence homicides [49] but less effective for public mass shooters [50,51]. The prohibition of LCMs may have no impact on firearm suicide because suicide decedents only require one bullet to kill themselves [52].

Several studies during and after the FAWB attempted to determine if gun policy that restricts the production and sale of assault weapons and LCMs decreased gun deaths [53,54]. These initial studies make meaningful contributions to the literature because they describe what constitutes assault weapons, magazine capacity, ballistics, and loopholes in the FAWB legislation [3,53-57]. However, these studies have found little to no evidence that these policies have had any overall effect on firearm homicides, gun lethality, or overall crime [58-61]. Since deaths from public mass shootings comprise less than 1% of all homicides based on our definition, testing whether or not the FAWB/LCM ban has an impact on homicide would wash out the effect. Since the FAWB/LCM ban may be effective at specific types of gun deaths, sampling must be limited to specific types of shooters over overall gun deaths or tests for lethality [62,63]. Finally, the variation in research findings is related to differences in research design, sampling frame, and case definition of a public mass shooting [3,53-56,64,65].

Our study differs from other studies that evaluated the efficacy of the FAWB because we used economic methods and a different outcome variable. Specifically, we focused on whether the FAWB resulted in fewer public mass shooting “events,” whereas other studies evaluated the number of gun injuries and deaths that occurred during the course of a mass shooting.

Objective

The aim of this study was to test whether curbing *access to certain types of guns and magazines* will decrease mass shooting events. We sought to empirically answer if there was a relationship between the FAWB and a reduction in mass shooting events.

Methods**Data Source**

We created a firearm surveillance system based on the National Institute of Justice–funded Violence Project dataset, which culled mass shooting events from 1966 to 2019 [6]. Consistent with earlier studies, we rely on the original Federal Bureau of Investigation (FBI) definition of a massacre, specifically where 4 or more people are killed within a single timeframe. We differentiate our mass shootings from others in that our inclusion criteria require the shootings to have occurred in a public setting.

We adapted this definition to only include massacres that involved gun deaths of 4 or more victims to isolate a particular type of mass shooter [66]. Many firearm surveillance systems that include mass shootings use a lower threshold of persons shot and many do not include deaths. An FBI report on active shooters in mass shooting events identified planning and preparation behaviors that are central to prevention [67]. This more narrow definition isolates premeditation, whereas broader definitions may include shooters that are more reactive [68]. Our case definition does not include family annihilators or felony killers because *familicides are defined by the victim-offender relationship, public massacres are defined by location, and felony killings are distinguished by motive* [69]. This differentiation is consistent with other mass shooting studies [70-72].

We examined the annual number of public mass shootings occurring between 1966 and 2019 that resulted in 4 or more fatalities. The hypothesis was that the FAWB reduced the number of public mass shootings per year during the period of the ban. We used regression discontinuity analysis to test the hypothesis. Regression discontinuity analysis is a standard economist tool used in policy analysis taking advantage of quasi-experimental designs [65,73].

Analyses

Regression discontinuity analysis allows for discontinuities or shifts in both the intercept and the slope of the trend line at both the onset and sunset of the FAWB. That is, we introduced intercept shift parameters in 1995 and 2005, and trend shift parameters for the periods 1995-2004 and 2005-2019. A statistically significant shift in a parameter indicates a discontinuity (ie, a finding that the FAWB had a statistically significant effect on the number of public mass shootings). We tested for statistical significance of the intercept and trend shift parameters both independently and jointly. All statistical inference was based on a significance level set at .05. We used the Huber-White robust residuals, which attenuate problems of autocorrelation, heteroscedasticity, and some types of model misspecification [74].

We then used the estimated model for two types of counterfactual analysis. First, we used the model to predict the number of public mass shootings that would have occurred had the FAWB not been in place. The difference between this counterfactual prediction and the modeled number of incidents with the FAWB in place provided an estimate of the number of public mass shootings that the FAWB prevented.

Second, we projected forward the number of public mass shootings that would have occurred had the FAWB been permanent (ie, continued from 2004 through to the end of the sample period). We note that in some sense, this is an “out of

sample” exercise because even though the sample extends to 2019, the FAWB ended in 2004; thus, this exercise would not pick up events in the past 15 years that would have augmented or compromised the effects of the FAWB. The difference between the modeled number of public mass shootings and the projected counterfactual number of public mass shootings could provide an estimate of the number of public mass shootings that the FAWB prevented.

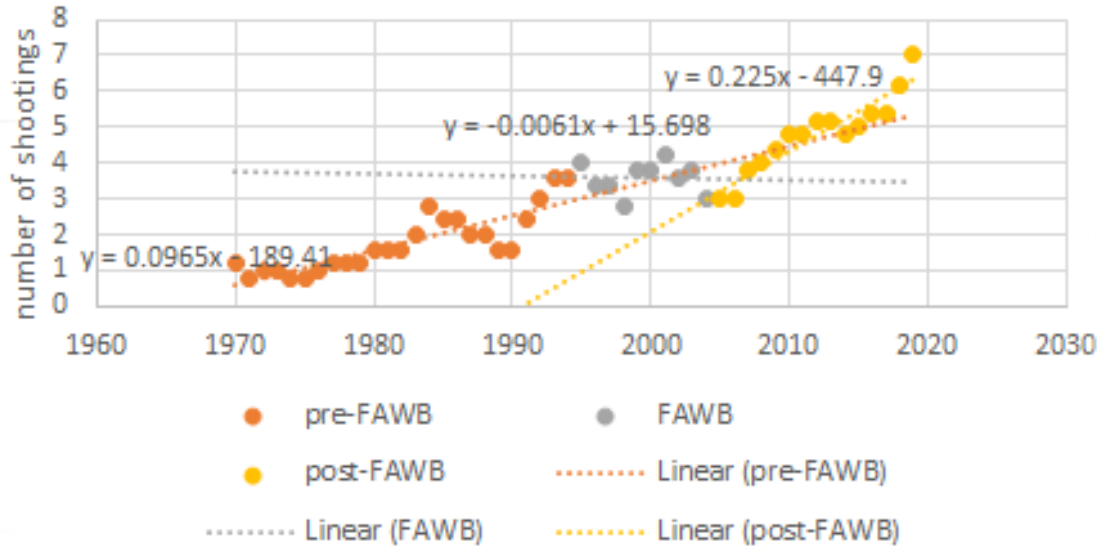
We performed a regression of the 5-year moving average of public mass shootings on the US population in millions, the homicide rate, and discontinuity variables to capture both the effects of the FAWB and its discontinuation. We did not introduce a trend line for the entire sample period because it is highly collinear with the population variable. For the period of the FAWB’s implementation, we originally introduced an intercept shift, time trend, and shift in the homicide rate; for the post-FAWB period, we introduced an intercept shift and a time trend. Due to collinearity, we retained only the trend shift in the final model for the FAWB period; for the post-FAWB period, we retained both the intercept and the trend shift.

Results

We identified a total of 170 public mass shooting events, the primary outcome variable, with 4 or more fatalities between 1966 and 2019. The 5-year cumulative number of public mass shootings is shown in [Figure 1](#), providing a visualization of the impacts of the FAWB on the number of shootings. The first mass shooting occurred in 1966; hence, the first data point for the cumulative number of shootings over the previous 5 years occurs in 1970. For 1966 and 1967, the cumulative number of public mass shootings was 3. This number then increased to 12 in 1993 and declined to 3 in 2004. After 2004, the cumulative number of public mass shootings increased to 81 in 2019. The last year of the ban, 2004, experienced the fewest public mass shootings through 2019.

The regression results showed excellent explanatory power ($R^2=0.94$). The coefficient on population was positive and statistically significant (.044, $P<.001$). This coefficient means that for every increase in population of 1 million people, there are an additional .044 public mass shooting events per year. The coefficient on the homicide rate was negative and statistically significant (-.249, $P=.01$). The coefficient on the time trend for the FAWB period captures the effect of the FAWB; this coefficient was negative and statistically significant (-.187, $P=.001$). Using prediction models in combination with regression slopes, we estimate that 11 public mass shootings were avoided due to the FAWB. The intercept discontinuity for 2005-2019 was negative and statistically significant (-2.232, $P=.001$), and the trend coefficient was positive and statistically significant (.081, $P=.001$).

Figure 1. Public mass shooting trend line using five year moving averages (1966-2019).

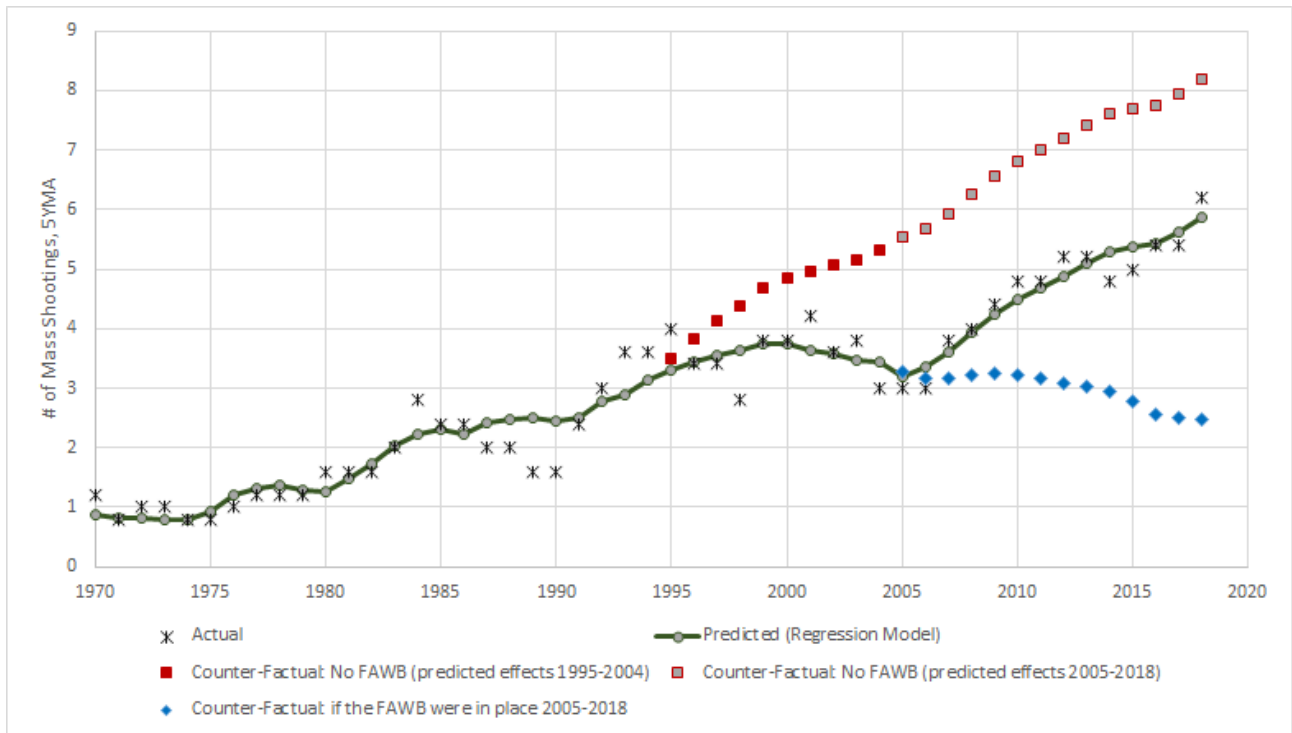


These results are graphed in Figure 2 in which the black stars represent the actual data and the green line represents the predicted numbers of public mass shootings from the regression discontinuity model. A bending of the trend during the FAWB period to become downward sloping at the end of the period is apparent, as is the return of the upward trajectory upon expiration of the FAWB. The red squares represent the projected numbers of public mass shootings during the FAWB period had there been no FAWB. The difference between the red squares

and the green lines represents the predicted number of public mass shootings averted by the FAWB. The model predicts that 11 public mass shootings were averted over the period of 1995-2004.

The blue diamonds represent the projected effects of a continuation of the FAWB through 2019 based on the observed trend from 1995 to 2004. This projection indicates that 30 public mass shootings would have been prevented from 2005 to 2019 had the FAWB been left in place.

Figure 2. Regression lines from discontinuity analysis of the federal assault weapons ban (1994-2004).



Discussion

Principal Findings

In total, 1225 people were killed in a mass shooting over the past 53 years with more than half occurring in the last decade, a function of increases in mass shootings and weapon lethality [62,63,75]. Public mass shooting fatalities and injuries far outpace population growth [75]. Between 1966 and 2019, the US population increased by 67% [76], whereas public mass shooting deaths increased by over 5-fold. The rise in public mass shootings throughout the sample period is in fact partially a function of population growth and homicide rate, along with the effects of the FAWB and its removal. An increase in the US population of 1 million people was associated with an increase of .040 ($P < .005$) public mass shootings per year. During the post-FAWB period, the increase in population from approximately 300 million in 2005 to 330 million in 2019 should be associated with an increase of 1.2 public mass shootings per year, compared to the actual increase of 4 public mass shootings per year in the data (5-year moving average). After controlling for population growth and homicide rate, a positive and statistically significant coefficient (.081, $P = .001$) on the 2005-2018 trend was seen. This further indicates a separate, nonpopulation trend of increasing violence operating during the post-FAWB period. The negative coefficient on the homicide rate invalidates the hypothesis that decreases in the numbers of public mass shootings are simply reflections of an overall decreasing homicide rate. The negative intercept discontinuity is consistent with an effect of the FAWB that persists somewhat beyond the immediate end of the ban. The positive trend coefficient is consistent with the hypothesis that the FAWB was associated with a decrease in the number of public mass shootings, as the expiration of the FAWB was associated with a shift from a downward trend to an upward trend in the number of public mass shootings per year.

The most striking finding from this study is that there was a reduction in the number of public mass shooting events while the FAWB was in place. Using prediction models in combination with regression slopes, we estimate that 11 public mass shootings were avoided due to the FAWB. By projecting what would have happened if the FAWB remained in place, we found that there would have been significantly fewer public mass shootings if the FAWB had remained in place to 2019. Remarkably, although it is intuitive that the removal of assault weapons and magazine clips will reduce the lethality of a mass shooting, we observed an inverse relationship between weapons/ammunition and mass shooting events, meaning that mass shooters may be less likely to perpetrate a mass shooting without rapid fire military-style weapons. This is an independent effect, which indirectly leads to fewer injuries and deaths. DiMaggio et al [64] also found evidence of a decrease in public mass shootings during the ban; however, their study period was shorter and was restricted to 51 public mass shootings. Unlike our study, they implicitly modeled public mass shootings as a random instance of general gun homicides that had a high death count [64]. In contrast, our findings suggest that public mass shootings are a unique type of premeditated gun violence. We found that prior to enactment of the FAWB, the rate of public

mass shootings was increasing. During enactment of the FAWB, there was a downward trend of mass shooting events. After the FAWB was lifted, public mass shootings increased dramatically. Firearm homicides in general follow no such patterns.

This effect was not found in the work of Koper, Roth, and colleagues [53-55]; however, their inclusion of all gun homicides masks the ban's effect on mass shootings. Even though Peterson and Densley's [77] work focused on perpetrator histories and not the FAWB, their findings that ease of gun access is characteristic of public mass shooters further supports our study. We restricted the inclusion criteria to public mass shootings to specifically test the effectiveness of the FAWB on public mass shooting events.

Regardless of the FAWB, bringing a semiautomatic rifle with high magazine capacity to a massacre significantly increases the number of fatalities and injuries. The increase in deaths is a function of rapid fire and increased ballistic energy. The increase in injuries is also a function of rapid fire and high-capacity magazines, enabling the shooter to shoot more people in crowded venues quickly before the crowd can disperse or hide. When controlling for the FAWB, the use of assault rifles decreased by half during implementation of the ban and tripled after the ban was lifted. This is a particularly important finding given that the FAWB had loopholes and that overall violent crime is decreasing [78]. First, all people with an assault weapon prior to the FAWB were allowed to retain their semiautomatic weapons [54,64]. Second, without a buyback program, semiautomatic weapons remained in the community [54,64]. Third, the ban did not target some military assault-like weapons [54,64]. Finally, a major loophole found in gun control legislation is that buyers can bypass background checks by purchasing their weapons and ammunition from gun shows, through illegal purchasing, or legally purchasing their guns and ammunition from another gun owner [57,63,79-87]. Even with these loopholes and issues, there was still a significant reduction in public mass shootings during the FAWB. These loopholes indicate that most people who purchase assault weapons do not become mass shooters; however, mass shooters require assault weapons and LCMs to carry out a mass shooting. Ban effectiveness might have improved if all assault weapons were included in the FAWB.

Some recent studies have specifically analyzed the effects of LCM bans on the incidence of public mass shootings. In a review of state legislation, Webster et al [88] found that bans of LCMs were associated with a significant reduction in the incidence of fatal public mass shootings. This study shows that the FAWB, which included a ban on LCMs, was associated with fewer fatalities and injuries during mass shootings in addition to fewer public mass shooting events. Koper et al [27] previously reported that 19% of public mass shootings resulting in 4 or more fatalities included the use of LCMs, while only 10% involved an assault weapon. Klarevas et al [29] found a similar pattern in shootings of 6 or more people, in which 67% of shooters utilized LCMs, whereas only 26% utilized an assault weapon. Because our study only looked at effects of the FAWB, which included an LCM ban, we were only able to determine the combined effects of limiting assault weapons and LCMs. To be clear, the reduction in the number of public mass

shootings, and resulting fatalities and injuries, may be a function of the ban on assault weapons, assault weapons plus LCMs, or only LCMs. We cannot separate out their independent effects at the national level.

Unlike our study, Webster et al [88] did not evaluate the incidence of assault weapons used in public mass shootings. Rather, they focused on fatalities from public mass shootings vs public mass shooting events. Although Webster et al [88] utilized the FBI Supplemental Homicide Report as their dataset, which is a voluntary reporting measurement system prone to errors in reporting, their findings are applicable to our analysis.

Limitations

Although we found statistically significant decreases during the FAWB, we cannot isolate aspects of the policy that are attributed to the decline. Most notably, the FAWB also included LCMs during the ban. It may be that the type of gun and/or the type of magazine resulted in a decline. Indeed, assault weapons and LCMs provide the means to carry out a mass shooting; however, there are likely other factors beyond this study that partially explain the radical increase in public mass shootings in the post-FAWB period. For example, the FAWB was in place from 1994 to 2004, which is the same time period that the US population largely adopted the internet, along with associated social communication software and websites. This may have

resulted in better tracking of public mass shootings or increased media coverage. Because our study specifically targeted the federal legislation, we omitted state-level gun policies such as state-level prohibitions on certain types of guns, LCMs, or more lethal types of bullets. It is likely that the internet serves as a contagion and as a guide to potential mass shooters, allowing them to access weapons and multiple stories about other mass shooters [62,67,89,90].

Conclusions

In summary, public mass shootings are a unique and specific type of homicide by a gun. We found evidence that public mass shootings are qualitatively different from general homicides because after the FAWB expired, mass shooting events increased while general homicides decreased. The increase in public mass shootings was more dramatic in the final 10 years of the study period following the end of the FAWB. We suspect that these outcomes may be improved by removing existing semiautomatic weapons with large bullet capacity by creating a buyback program for all rapid-firing weapons. Moreover, the legislation would be strengthened if it closed loopholes that allow gun buyers to get around the background check legislation and other purchase prohibitions by exempting gun shows and internet or person-to-person purchases, which were exempted from the FAWB and LCM ban [87].

Acknowledgments

The Violence Project Mass Shooter database generated data for our surveillance. This study was financially supported by the Buehler Endowment at Feinberg School of Medicine.

Conflicts of Interest

None declared.

References

1. Web-based Injury Statistics Query and Reporting System. Centers for Disease Control and Prevention, Injury Prevention and Control. 2020 Jul 01. URL: <https://www.cdc.gov/injury/wisqars/index.html> [accessed 2021-01-15]
2. Christensen AJ, Cunningham R, Delamater A, Hamilton N. Introduction to the special issue on gun violence: addressing a critical public health challenge. *J Behav Med* 2019 Aug;42(4):581-583. [doi: [10.1007/s10865-019-00075-8](https://doi.org/10.1007/s10865-019-00075-8)] [Medline: [31367923](https://pubmed.ncbi.nlm.nih.gov/31367923/)]
3. Drake B. Mass shootings rivet national attention, but are a small share of gun violence. Pew Research Center. 2013 Sep 17. URL: <https://www.pewresearch.org/fact-tank/2013/09/17/mass-shootings-rivet-national-attention-but-are-a-small-share-of-gun-violence/> [accessed 2020-12-10]
4. Bowers TG, Holmes ES, Rhom A. The nature of mass murder and autogenic massacre. *J Police Crim Psych* 2009 Nov 7;25(2):59-66. [doi: [10.1007/s11896-009-9059-6](https://doi.org/10.1007/s11896-009-9059-6)]
5. Delisi M, Scherer AM. Multiple homicide offenders. *Crim Justice Behav* 2016 Jun 30;33(3):367-391. [doi: [10.1177/0093854806286193](https://doi.org/10.1177/0093854806286193)]
6. Mass shooter database. The Violence Project. 2020. URL: <https://www.theviolenceproject.org/> [accessed 2021-01-14]
7. Shelby D. Association between adult alcohol misuse, adult mental health, and firearm storage practices in households with children: findings from the Behavioral Risk Factor Surveillance System (BRFSS). MPH Thesis. ScholarWorks @ Georgia State University. 2021 Dec 09. URL: https://scholarworks.gsu.edu/iph_theses/725 [accessed 2021-01-08]
8. Loder R, Mishra A, Atoa B, Young A. Spinal injury associated with firearm use. *Cureus* 2021 Mar 16;13(3):e13918 [FREE Full text] [doi: [10.7759/cureus.13918](https://doi.org/10.7759/cureus.13918)]
9. Mueller KL, Trolard A, Moran V, Landman JM, Foraker R. Positioning public health surveillance for observational studies and clinical trials: The St. Louis region-wide hospital-based violence intervention program data repository. *Contemp Clin Trials Commun* 2021 Mar;21:100683 [FREE Full text] [doi: [10.1016/j.conctc.2020.100683](https://doi.org/10.1016/j.conctc.2020.100683)] [Medline: [33385095](https://pubmed.ncbi.nlm.nih.gov/33385095/)]

10. Horn DL, Butler EK, Stahl JL, Rowhani-Rahbar A, Littman AJ. A multi-state evaluation of the association between mental health and firearm storage practices. *Prev Med* 2021 Apr;145:106389. [doi: [10.1016/j.ypmed.2020.106389](https://doi.org/10.1016/j.ypmed.2020.106389)] [Medline: [33385422](https://pubmed.ncbi.nlm.nih.gov/33385422/)]
11. Gunn JF, Boxer P. Gun laws and youth gun carrying: results from the youth risk behavior surveillance system, 2005-2017. *J Youth Adolesc* 2021 Mar;50(3):446-458. [doi: [10.1007/s10964-020-01384-x](https://doi.org/10.1007/s10964-020-01384-x)] [Medline: [33420890](https://pubmed.ncbi.nlm.nih.gov/33420890/)]
12. Rozel J, Soliman L, Jain A. The gun talk: how to have effective conversations with patients and families about firearm injury prevention. In: Zun LS, Nordstrom K, Wilson MP, editors. *Behavioral Emergencies for Healthcare Providers*. Switzerland: Springer; Jan 05, 2021:465-473.
13. Keyes KM, Kandula S, Olfson M, Gould MS, Martínez-Alés G, Rutherford C, et al. Suicide and the agent–host–environment triad: leveraging surveillance sources to inform prevention. *Psychol Med* 2021 Mar 05;51(4):529-537. [doi: [10.1017/s003329172000536x](https://doi.org/10.1017/s003329172000536x)]
14. Bluestein G, Hallerman T. Future directions for firearm injury intervention, policy, and research. In: Lee LK, Fleeger EW, editors. *Pediatric Firearm Injuries and Fatalities: The Clinician's Guide to Policies and Approaches to Firearm Harm Prevention*. Switzerland: Springer; Feb 06, 2021:223-234.
15. Oehmke J, Moss C, Singh L, Oehmke T, Post L. Dynamic panel surveillance of COVID-19 transmission in the United States to inform health policy: observational statistical study. *J Med Internet Res* 2020 Oct 05;22(10):e21955 [FREE Full text] [doi: [10.2196/21955](https://doi.org/10.2196/21955)] [Medline: [32924962](https://pubmed.ncbi.nlm.nih.gov/32924962/)]
16. Oehmke J, Oehmke T, Singh L, Post L. Dynamic panel estimate-based health surveillance of SARS-CoV-2 infection rates to inform public health policy: model development and validation. *J Med Internet Res* 2020 Sep 22;22(9):e20924 [FREE Full text] [doi: [10.2196/20924](https://doi.org/10.2196/20924)] [Medline: [32915762](https://pubmed.ncbi.nlm.nih.gov/32915762/)]
17. Post L, Benishay E, Moss C, Murphy R, Achenbach C, Ison M, et al. Surveillance metrics of SARS-CoV-2 transmission in central Asia: longitudinal trend analysis. *J Med Internet Res* 2021 Feb 03;23(2):e25799 [FREE Full text] [doi: [10.2196/25799](https://doi.org/10.2196/25799)] [Medline: [33475513](https://pubmed.ncbi.nlm.nih.gov/33475513/)]
18. Post LA, Issa TZ, Boctor MJ, Moss CB, Murphy RL, Ison MG, et al. Dynamic public health surveillance to track and mitigate the US COVID-19 epidemic: longitudinal trend analysis study. *J Med Internet Res* 2020 Dec 03;22(12):e24286 [FREE Full text] [doi: [10.2196/24286](https://doi.org/10.2196/24286)] [Medline: [33216726](https://pubmed.ncbi.nlm.nih.gov/33216726/)]
19. Post LA, Lin JS, Moss CB, Murphy RL, Ison MG, Achenbach CJ, et al. SARS-CoV-2 wave two surveillance in East Asia and the Pacific: longitudinal trend analysis. *J Med Internet Res* 2021 Feb 01;23(2):e25454 [FREE Full text] [doi: [10.2196/25454](https://doi.org/10.2196/25454)] [Medline: [33464207](https://pubmed.ncbi.nlm.nih.gov/33464207/)]
20. Post L, Marogi E, Moss CB, Murphy RL, Ison MG, Achenbach CJ, et al. SARS-CoV-2 surveillance in the Middle East and North Africa: longitudinal trend analysis. *J Med Internet Res* 2021 Jan 15;23(1):e25830 [FREE Full text] [doi: [10.2196/25830](https://doi.org/10.2196/25830)] [Medline: [33302252](https://pubmed.ncbi.nlm.nih.gov/33302252/)]
21. Post LA, Argaw ST, Jones C, Moss CB, Resnick D, Singh LN, et al. A SARS-CoV-2 surveillance system in Sub-Saharan Africa: modeling study for persistence and transmission to inform policy. *J Med Internet Res* 2020 Nov 19;22(11):e24248 [FREE Full text] [doi: [10.2196/24248](https://doi.org/10.2196/24248)] [Medline: [33211026](https://pubmed.ncbi.nlm.nih.gov/33211026/)]
22. Teutsch S, Thacker S. Planning a public health surveillance system. *Epidemiol Bull* 1995 Mar;16(1):1-6. [Medline: [7794696](https://pubmed.ncbi.nlm.nih.gov/7794696/)]
23. Jacobs J, Fuhr Z. The Safe Act: New York's ban on assault weapons and large capacity magazines. *Crim Law Bull* 2017 Jun 29;53(1):4 [FREE Full text]
24. Wallace EG. Assault weapon myths. *South Ill Univ Law J* 2018 Nov 18;43:193. [doi: [10.4135/9781452229300.n127](https://doi.org/10.4135/9781452229300.n127)]
25. Kopel D, Lowy J, Rostron A. Heller and "Assault Weapons". *Campbell Law Rev* 2018 Feb 02;40(2):461-480 [FREE Full text]
26. Pfau MW. Defining the deadly: definitional argument and the assault weapons ban controversy. *Argum Advocacy* 2020 Jul 20;56(3):155-173. [doi: [10.1080/10511431.2020.1793276](https://doi.org/10.1080/10511431.2020.1793276)]
27. Koper CS, Johnson WD, Nichols JL, Ayers A, Mullins N. Criminal use of assault weapons and high-capacity semiautomatic firearms: an updated examination of local and national sources. *J Urban Health* 2018 Jun;95(3):313-321 [FREE Full text] [doi: [10.1007/s11524-017-0205-7](https://doi.org/10.1007/s11524-017-0205-7)] [Medline: [28971349](https://pubmed.ncbi.nlm.nih.gov/28971349/)]
28. United States Congress House Committee on the Judiciary. Subcommittee on Crime and Criminal Justice. Public Safety and Recreational Firearms Use Protection Act. In: Hearing before the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary, House of Representatives, One Hundred Third Congress, second session, on H.R. 3527. Washington, DC: US Government; Apr 25, 1994.
29. Klarevas L, Conner A, Hemenway D. The effect of large-capacity magazine bans on high-fatality mass shootings, 1990–2017. *Am J Public Health* 2019 Dec;109(12):1754-1761. [doi: [10.2105/ajph.2019.305311](https://doi.org/10.2105/ajph.2019.305311)]
30. Kleck G. Large-capacity magazines and the casualty counts in mass shootings. *Justice Res Policy* 2016 Jun 01;17(1):28-47. [doi: [10.1177/1525107116674926](https://doi.org/10.1177/1525107116674926)]
31. Abbasi J. Large-capacity magazine bans linked with fewer mass shootings, deaths. *JAMA* 2020 Jan 14;323(2):108-109. [doi: [10.1001/jama.2019.20457](https://doi.org/10.1001/jama.2019.20457)] [Medline: [31851333](https://pubmed.ncbi.nlm.nih.gov/31851333/)]
32. Koper CS. Assessing the potential to reduce deaths and injuries from mass shootings through restrictions on assault weapons and other high - capacity semiautomatic firearms. *Criminol Public Policy* 2020 Jan 10;19(1):147-170. [doi: [10.1111/1745-9133.12485](https://doi.org/10.1111/1745-9133.12485)]

33. Towers S, Wallace D, Hemenway D. Temporal trends in public mass shootings: high-capacity magazines significantly increase fatality counts, and are becoming more prevalent. medRxiv preprint server. 2019 Dec 15. URL: <https://www.medrxiv.org/content/10.1101/2019.12.12.19014738v1> [accessed 2021-04-17]
34. Webster DW, McCourt AD, Crifasi CK, Booty MD, Stuart EA. Evidence concerning the regulation of firearms design, sale, and carrying on fatal mass shootings in the United States. *Criminol Public Policy* 2020 Jan 30;19(1):171-212. [doi: [10.1111/1745-9133.12487](https://doi.org/10.1111/1745-9133.12487)]
35. Lowy J. Comments on assault weapons, the right to arms, and the right to live. *Harv J Law Public Policy* 2020;43(2):375-386 [FREE Full text]
36. Kim A. United States gun policy and the effect on mass shootings. California State University Northridge Scholarworks Open Access Repository. Northridge, CA: CSU Northridge University Library; 2020 Aug 25. URL: <http://hdl.handle.net/10211.3/217278> [accessed 2020-12-06]
37. Pfau MW. Defining the deadly: definitional argument and the assault weapons ban controversy. *Argum Advocacy* 2020 Jul 20;56(3):155-173. [doi: [10.1080/10511431.2020.1793276](https://doi.org/10.1080/10511431.2020.1793276)]
38. Balakrishna M, Wilbur KC. How the Massachusetts Assault Weapons Ban Enforcement Notice changed firearm sales. *SSRN J* 2021 Feb 4:1-51 [FREE Full text] [doi: [10.2139/ssrn.3779510](https://doi.org/10.2139/ssrn.3779510)]
39. Soto L, Chheda S, Soto J. Reducing fatalities in mass attacks and the related matter of gun control policy following the El Paso August 2019 shooting. *Tex Hisp J Law Policy* 2020;26:85.
40. Nagin DS, Koper CS, Lum C. Policy recommendations for countering mass shootings in the United States. *Criminol Public Policy* 2020 Jan 10;19(1):9-15. [doi: [10.1111/1745-9133.12484](https://doi.org/10.1111/1745-9133.12484)]
41. Gay C. 'Red Flag' laws: how law enforcement's controversial new tool to reduce mass shootings fits within current Second Amendment jurisprudence. *Boston Coll Law Rev* 2020 Apr 30;61(4):1491-1533 [FREE Full text]
42. Nielsen D. Disarming dangerous persons: how Connecticut's Red Flag Law saves lives without jeopardizing constitutional protections. *Quinnipiac Health Law J* 2020;23(3):253.
43. Blocher J, Charles J. Firearms, extreme risk, and legal design: "Red Flag" laws and due process. *Virginia Law Rev* 2020 Oct 19;106(6):1285.
44. Kopel DB. Red Flag Laws: proceed with caution. *Law Psychol Rev* 2020 Jul 16:forthcoming [FREE Full text] [doi: [10.2139/ssrn.3653555](https://doi.org/10.2139/ssrn.3653555)]
45. Blodgett S. Dementia, guns, Red Flag laws: Can Indiana's Statute balance elders' constitutional rights and public safety? *NAELA J* 2020 Sep;16:1-22 [FREE Full text]
46. Kerr S. "What We Need Is Bullet Control": could regulation of bullets reduce mass shootings? In: Crews G, editor. *Handbook of Research on Mass Shootings and Multiple Victim Violence*. Hershey, PA: IGI Global; Oct 2019:432-446.
47. Moore EE. Another mass shooting: Time to ban the assault rifle. *J Trauma Acute Care Surg* 2018 Jun;84(6):1036. [doi: [10.1097/TA.0000000000001863](https://doi.org/10.1097/TA.0000000000001863)] [Medline: [29799817](https://pubmed.ncbi.nlm.nih.gov/29799817/)]
48. Delaney GA, Charles JD. A double-filter provision for expanded Red Flag laws: a proposal for balancing rights and risks in preventing gun violence. *J Law Med Ethics* 2020 Dec;48(4_suppl):126-132. [doi: [10.1177/1073110520979412](https://doi.org/10.1177/1073110520979412)] [Medline: [33404308](https://pubmed.ncbi.nlm.nih.gov/33404308/)]
49. Honberg RS. Mental illness and gun violence: research and policy options. *J Law Med Ethics* 2020 Dec;48(4_suppl):137-141. [doi: [10.1177/1073110520979414](https://doi.org/10.1177/1073110520979414)] [Medline: [33404306](https://pubmed.ncbi.nlm.nih.gov/33404306/)]
50. Laqueur HS, Wintemute GJ. Identifying high - risk firearm owners to prevent mass violence. *Criminol Public Policy* 2019 Dec 16;19(1):109-127. [doi: [10.1111/1745-9133.12477](https://doi.org/10.1111/1745-9133.12477)]
51. Pallin R, Schleimer JP, Pear VA, Wintemute GJ. Assessment of extreme risk protection order use in California from 2016 to 2019. *JAMA Netw Open* 2020 Jun 01;3(6):e207735 [FREE Full text] [doi: [10.1001/jamanetworkopen.2020.7735](https://doi.org/10.1001/jamanetworkopen.2020.7735)] [Medline: [32556258](https://pubmed.ncbi.nlm.nih.gov/32556258/)]
52. Hurka S, Knill C. Does regulation matter? A cross - national analysis of the impact of gun policies on homicide and suicide rates. *Regul Gov* 2018 Dec 21;14(4):787-803. [doi: [10.1111/rego.12235](https://doi.org/10.1111/rego.12235)]
53. Koper C, Roth J. The impact of the 1994 Federal Assault Weapon Ban on gun violence outcomes: an assessment of multiple outcome measures and some lessons for policy evaluation. *J Quant Criminol* 2001 Mar;17(1):33-74.
54. Koper C, Woods D, Roth J. Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003. Report to the National Institute of Justice, United States Department of Justice. 2004 Jul. URL: <https://www.ojp.gov/pdffiles1/nij/grants/204431.pdf> [accessed 2020-12-11]
55. Roth J, Koper C, Adams W, Johnson S, Marcotte J, McGready J, et al. Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994 Final Report. Urban Institute. Washington, DC: The Urban Institute; 1997 Mar 13. URL: https://www.urban.org/research/publication/impact-evaluation-public-safety-and-recreational-firearms-use-protection-act-1994/view/full_report [accessed 2021-02-10]
56. Webster D, Vernick J, McGinty E, Alcorn T. *Regulating Gun Sales: An Excerpt from Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*. Baltimore, MD: Johns Hopkins University Press; 2013.
57. Jacobs J. *Can Gun Control Work? (Studies in Crime and Public Policy)*. Oxford: Oxford University Press; Oct 14, 2004.

58. Lee LK, Fleegler EW, Farrell C, Avakame E, Srinivasan S, Hemenway D, et al. Firearm laws and firearm homicides: a systematic review. *JAMA Intern Med* 2017 Jan 01;177(1):106-119. [doi: [10.1001/jamainternmed.2016.7051](https://doi.org/10.1001/jamainternmed.2016.7051)] [Medline: [27842178](https://pubmed.ncbi.nlm.nih.gov/27842178/)]
59. Gius M. An examination of the effects of concealed weapons laws and assault weapons bans on state-level murder rates. *Appl Econ Lett* 2013 Nov 26;21(4):265-267. [doi: [10.1080/13504851.2013.854294](https://doi.org/10.1080/13504851.2013.854294)]
60. Cook P, Goss K. *The Gun Debate: What Everyone Needs to Know*. New York: Oxford University Press; May 01, 2014.
61. Cook P, Goss K. *The Gun Debate: What Everyone Needs to Know, 2nd Edition*. New York: Oxford University Press; Apr 16, 2020.
62. Lankford A, Silver J. Why have public mass shootings become more deadly? *Criminol Public Policy* 2019 Dec 16;19(1):37-60. [doi: [10.1111/1745-9133.12472](https://doi.org/10.1111/1745-9133.12472)]
63. Schiff M. IZA Discussion Paper 12784: Greater US gun ownership, lethality and murder rates: analysis and policy proposals. IZA Institute of Labor Economics. 2019 Nov 27. URL: <https://www.iza.org/publications/dp/12784/greater-us-gun-ownership-lethality-and-murder-rates-analysis-and-policy-proposals> [accessed 2021-04-17]
64. DiMaggio C, Avraham J, Berry C, Bukur M, Feldman J, Klein M, et al. Changes in US mass shooting deaths associated with the 1994–2004 federal assault weapons ban: Analysis of open-source data. *J Trauma Acute Care Surg* 2019 Jan;86(1):11-19. [doi: [10.1097/ta.0000000000002060](https://doi.org/10.1097/ta.0000000000002060)]
65. World Telecommunication/ICT Indicators Database 2020 (24th Edition). International Telecommunications Union. Geneva: International Telecommunications Union; 2021 Jan. URL: <https://www.itu.int/en/ITU-D/Statistics/Pages/publications/wtid.aspx> [accessed 2021-04-17]
66. Lopez G. America's unique gun violence problem, explained in 17 maps and charts. *Vox*. 2021 Mar 23. URL: <https://www.vox.com/policy-and-politics/2017/10/2/16399418/boulder-colorado-mass-shooting-gun-violence-statistics-charts> [accessed 2021-03-29]
67. Silver J, Simons A, Craun S. A study of the pre-attack behaviors of active shooters in the United States between 2000 and 2013. FBI Documents. Washington, DC: US Department of Justice, Federal Bureau of Investigations; 2018. URL: <https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf/view> [accessed 2020-10-25]
68. DeFoster R, Swalve N. Guns, culture or mental health? Framing mass shootings as a public health crisis. *Health Commun* 2018 Oct;33(10):1211-1222. [doi: [10.1080/10410236.2017.1350907](https://doi.org/10.1080/10410236.2017.1350907)] [Medline: [28841045](https://pubmed.ncbi.nlm.nih.gov/28841045/)]
69. Fridel EE. A multivariate comparison of family, felony, and public mass murders in the United States. *J Interpers Violence* 2021 Feb;36(3-4):1092-1118. [doi: [10.1177/0886260517739286](https://doi.org/10.1177/0886260517739286)] [Medline: [29294976](https://pubmed.ncbi.nlm.nih.gov/29294976/)]
70. Duwe G. *Mass murder in the United States: a history*. Jefferson, NC: McFarland & Company; Jan 07, 2007.
71. Fox J, Levin J. Mass confusion concerning mass murder. *Criminologist* 2015;40(1):8-11 [FREE Full text] [doi: [10.4135/9781412950619.n277](https://doi.org/10.4135/9781412950619.n277)]
72. Fox JA, Levin J. Firing back: the growing threat of workplace homicide. *An Am Acad Pol Soc Sci* 2016 Sep 08;536(1):16-30. [doi: [10.1177/0002716294536001002](https://doi.org/10.1177/0002716294536001002)]
73. Stevenson AJ, Flores-Vazquez IM, Allgeyer RL, Schenkkan P, Potter JE. Effect of removal of Planned Parenthood from the Texas Women's Health Program. *N Engl J Med* 2016 Mar 03;374(9):853-860. [doi: [10.1056/nejmsa1511902](https://doi.org/10.1056/nejmsa1511902)]
74. Freedman DA. On the so-called "Huber Sandwich Estimator" and "Robust Standard Errors". *Am Statistician* 2006 Nov;60(4):299-302. [doi: [10.1198/000313006x152207](https://doi.org/10.1198/000313006x152207)]
75. Duwe G. Mass shootings are getting deadlier, not more frequent. *Politico Magazine*. 2017 Oct 04. URL: <https://www.politico.com/magazine/story/2017/10/04/mass-shootings-more-deadly-frequent-research-215678/> [accessed 2021-01-30]
76. Population Trends. United States Census Bureau. 2019. URL: <https://www.census.gov/> [accessed 2019-08-26]
77. Peterson J, Densley J. We have studied every mass shooting since 1966. Here's what we've learned about the shooters. *Los Angeles Times*. 2019 Aug 04. URL: <https://www.latimes.com/opinion/story/2019-08-04/el-paso-dayton-gilroy-mass-shooters-data> [accessed 2020-02-01]
78. Klingner DE, Williams E. Topic: Public Safety. *Public Integrity* 2019 Mar 06;21(2):220-224. [doi: [10.1080/10999922.2019.1565268](https://doi.org/10.1080/10999922.2019.1565268)]
79. Hand C. *Gun control and the Second Amendment*. Minneapolis, MN: ABDO; Dec 15, 2016.
80. Popovits A. *Dominican University of California Political Science & International Studies (Senior Thesis)*. 2020 May. URL: <https://tinyurl.com/se3vrmd6> [accessed 2020-12-01]
81. Miller SV. What Americans think about gun control: evidence from the General Social Survey, 1972-2016. *Soc Sci Quart* 2018 Nov 18;100(1):272-288. [doi: [10.1111/ssqu.12555](https://doi.org/10.1111/ssqu.12555)]
82. Kellner D. School shootings, societal violence and gun culture. In: Shapiro H, editor. *The Wiley Handbook on Violence in Education: Forms, Factors, and Preventions*. Medford, MA: John Wiley & Sons, Inc; 2018:53-68.
83. Schildkraut J. *Assault weapons, mass shootings, and options for lawmakers*. Rockefeller Institute of Government. 2019 Mar 22. URL: <https://rockinst.org/issue-area/assault-weapons-mass-shootings-and-options-for-lawmakers/> [accessed 2021-02-11]
84. Jacobs J, Fuhr Z. The potential and limitations of universal background checking for gun purchasers. *Wake Forest J Law Policy* 2017;7(2):537-583.

85. Braga AA, Brunson RK, Cook PJ, Turchan B, Wade B. Underground gun markets and the flow of illegal guns into the Bronx and Brooklyn: a mixed methods analysis. *J Urban Health* 2020 Sep 04;online ahead of print. [doi: [10.1007/s11524-020-00477-z](https://doi.org/10.1007/s11524-020-00477-z)] [Medline: [32888157](https://pubmed.ncbi.nlm.nih.gov/32888157/)]
86. Chai C. Gun control: can we take a shot at it? *AMASS* 2019;24(2):34-36.
87. Goldberg J. The case for more guns (and more gun control). *The Atlantic*. 2012 Dec. URL: <https://www.theatlantic.com/magazine/archive/2012/12/the-case-for-more-guns-and-more-gun-control/309161/> [accessed 2020-11-20]
88. Webster DW, McCourt AD, Crifasi CK, Booty MD, Stuart EA. Evidence concerning the regulation of firearms design, sale, and carrying on fatal mass shootings in the United States. *Criminol Public Policy* 2020 Jan 30;19(1):171-212. [doi: [10.1111/1745-9133.12487](https://doi.org/10.1111/1745-9133.12487)]
89. Lankford A, Madfis E. Media coverage of mass killers: content, consequences, and solutions. *Am Behav Sci* 2018 Mar 20;62(2):151-162. [doi: [10.1177/0002764218763476](https://doi.org/10.1177/0002764218763476)]
90. Kien S, Begay T, Lee A, Stefanidis A. Social media during the school shooting contagion period. *Violence Gender* 2019 Dec 01;6(4):201-210. [doi: [10.1089/vio.2019.0043](https://doi.org/10.1089/vio.2019.0043)]

Abbreviations

FAWB: Federal Assault Weapons Ban

FBI: Federal Bureau of Investigation

LCM: large-capacity magazine

Edited by G Eysenbach, T Sanchez; submitted 19.02.21; peer-reviewed by T Alcorn; comments to author 12.03.21; revised version received 24.03.21; accepted 30.03.21; published 22.04.21

Please cite as:

Post L, Mason M, Singh LN, Wleklinski NP, Moss CB, Mohammad H, Issa TZ, Akhetuamhen AI, Brandt CA, Welch SB, Oehmke JF
Impact of Firearm Surveillance on Gun Control Policy: Regression Discontinuity Analysis

JMIR Public Health Surveill 2021;7(4):e26042

URL: <https://publichealth.jmir.org/2021/4/e26042>

doi: [10.2196/26042](https://doi.org/10.2196/26042)

PMID: [33783360](https://pubmed.ncbi.nlm.nih.gov/33783360/)

©Lori Post, Maryann Mason, Lauren Nadya Singh, Nicholas P Wleklinski, Charles B Moss, Hassan Mohammad, Tariq Z Issa, Adesuwa I Akhetuamhen, Cynthia A Brandt, Sarah B Welch, James Francis Oehmke. Originally published in *JMIR Public Health and Surveillance* (<https://publichealth.jmir.org>), 22.04.2021. This is an open-access article distributed under the terms of the Creative Commons Attribution License (<https://creativecommons.org/licenses/by/4.0/>), which permits unrestricted use, distribution, and reproduction in any medium, provided the original work, first published in *JMIR Public Health and Surveillance*, is properly cited. The complete bibliographic information, a link to the original publication on <https://publichealth.jmir.org>, as well as this copyright and license information must be included.

VIEWPOINT

Regulating Assault Weapons and Large-Capacity Magazines for Ammunition

Philip J. Cook, PhD
Duke University,
Durham,
North Carolina.

**John J. Donohue, PhD,
JD**
Stanford University,
Stanford, California.



Viewpoint pages 1177, 1179, 1181, 1183, 1185, 1187, 1189, 1193, 1195, and 1197 and Editorial page 1201



Supplemental content

Mass public shootings in the US account for a small fraction of all firearm-related homicides, but have an outsized role in stoking the public's concern with firearm violence. The vivid instances of attacks on people in churches, schools, and offices and at other public gathering places do vastly disproportionate damage to peace of mind by creating a sense of peril in places that should feel safe. These attacks have been increasing in frequency and deadliness in recent years. As reducing this particular type of firearm violence becomes more urgent, the case for a variety of prevention measures becomes even stronger.

This Viewpoint focuses on a measure that is highly specific to the gun violence problem—stringent regulation of assault weapons and large-capacity magazines (LCMs) for ammunition. Federal law banned the introduction of new LCMs and military-style semiautomatic firearms between 1994 and 2004, but that regulation ended in 2004 and Congress did not renew it. Now, years later, the nation is experiencing the dire effects of opening the door to the manufacture and import of these weapons; it is time to close that door.

History and Current Status of Bans

The history of federal bans on weapons of mass destruction goes back to the 1934 National Firearms Act. Among other provisions, the Act required submachine guns and other firearms capable of fully

Current estimates suggest that approximately 20 million assault weapons are owned by private individuals in the US, with millions of new assault weapons manufactured and imported each year.

automatic fire (ie, firing several shots with a single pull of the trigger) to be registered with the federal government.¹ All transactions involving such weapons were taxed at \$200, a high confiscatory amount at the time. The registration and tax requirement remained in place, although inflation has substantially undercut the force of the transfer fee. The Act was expanded by Congress in 1986 to end the sale of new fully automatic weapons. There is every reason to believe that these restrictions have been effective. Even though the Thompson submachine gun was a notorious gangster weapon in the 1920s, fully automatic weapons of any kind are rarely used in crime in modern times or in mass public shootings.¹

The 1994 Federal Assault Weapons Ban extended the regulation of military-style weapons to include some semi-automatic firearms. These weapons fire 1 round of ammunition for each pull of the trigger, and are capable of firing at a rate of roughly 1 per second. The 1994 Assault Weapons Ban ended the legal manufacture and import of specified firearms, as well as ammunition-feeding devices (magazines) that held more than 10 rounds of ammunition. At the time, most prohibited assault weapons were equipped with detachable magazines that held 30 rounds and could accept magazines that could hold as many as 50 or 100 rounds, thus making it possible to fire dozens of rounds without pausing to reload.²

The 1994 federal ban on new assault weapons had gaping loopholes. First, the federal ban did not restrict possession or transactions of existing assault weapons and LCMs. Second, manufacturers found ways to slightly modify the design of some of the banned weapons so that they met the letter of the law while preserving the military appearance and the possibility of accepting LCMs and firing high-powered ammunition quickly. Still, there is evidence that the ban had some salutary effect on mass public shootings.

The LCM ban, also in effect during 1994 to 2004, was not subject to the redesign problem because it provided a bright line that was difficult for manufacturers to overcome. There were, however, an estimated 25 million LCMs in circulation when the ban was enacted, and those remained in circulation, but with no new additions.² It was not just assault weapons (as defined) that were designed to use LCMs, but a variety of other semiautomatic firearms as well, so the LCM ban had much broader scope.

When the law expired in 2004, manufacturing and importations of LCMs and previously banned weapons resumed, and a surge of sales followed. Current estimates suggest that approximately 20 million assault weapons are owned by private individuals in the US, with millions of new assault weapons manufactured and imported each year.³ The industry initially advertised these weapons as "assault rifles," and continues to promote them with military allusions but has now rebranded this type of weapon as the "modern sporting rifle."

Seven states have some version of a ban or stringent restrictions on assault weapons: California, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York, as well as the District of Columbia.⁴ These laws are being challenged in the courts as a violation of the Second Amendment, but have survived these challenges to date.

Corresponding Author: Philip J. Cook, PhD, Sanford School of Public Policy, Duke University, PO Box 90545, Durham, NC 27708 (pcook@duke.edu).

Evidence of Potential Effectiveness of a National Ban

A review conducted by the RAND Corporation concluded that the handful of published studies on the effect of the ban on mass public shootings was “inconclusive” due in part to flaws in the analysis used by the 3 studies with positive findings.⁴ But it is unlikely the surge in mass public shootings that involved assault weapons and LCMs that occurred after the ban would have happened if the ban had remained in place. The logic is straightforward. The sales of these weapons, which had declined during the ban, expanded greatly following its repeal, making them more widely available to everyone including would-be mass murderers.

To document recent trends in such mass public shootings requires a precise definition. One common definition for mass public shootings has several elements,^{5,6} including: (1) a minimum of 4 homicides; (2) a public location; and (3) circumstance not attributable to robbery, other felonious activity, or commonplace conflict in families or among acquaintances. A comprehensive compilation of such events is the Violence Project’s database of mass shootings in the US,⁷ which includes the number of people killed and injured in each event and the type of weapon or weapons used.

Information from this database indicates that in the years following when the law expired in 2004, the number of mass shooting incidents greatly increased and the number of fatalities increased even more. During the period from 2015 to 2019, the number of incidents reached 33 (or 6.6 per year), which was almost twice the number during the decade the Federal Assault Weapons Ban was in effect (eFigure and eTable in the [Supplement](#)). The number of fatalities from shootings that involved banned weapons decreased during the second half of the ban (2000-2004) and then surged during subsequent periods, reaching a total of 271 during 2015 to 2019. It was during that 5-year interval from 2015 to 2019 that 5 of the top-10 deadliest mass public shootings in US history occurred, and all were committed with assault weapons.⁸ The number of fatalities resulting from mass public shootings with other weapons has remained relatively flat.

The Australian Ban on Rapid-Fire Weapons

The Australian experience has factored into the debate over reinstating the assault weapons ban in the US. In Australia, the impetus for banning semiautomatic weapons was a 1996 mass public shoot-

ing in Port Arthur, Tasmania, in which a young man killed 35 people with a semiautomatic rifle. Swift action by the federal and state legislatures produced legislation that banned not only manufacture and import, but private possession of semiautomatic rifles. To ease the transition, a series of firearm buybacks were instituted, and 1 million weapons were ultimately relinquished, estimated to be one-third of all privately owned guns. Australia had 11 mass shootings during the decade prior to the ban,⁹ and 1 since then (a family killing in 2018 that would not count as a mass public shooting by the US definition).

The Australian experience is illustrative as a proof of concept for other countries, including the US. Of note, the ban covered all semiautomatic rifles, not just those with the specific features suggestive of use in warfare as opposed to hunting. The ban on possession of existing guns rather than only on the introduction of new guns greatly accelerated its apparent effectiveness.

Potential Next Steps

On July 29, 2022, the US House of Representatives passed the Assault Weapons Ban of 2022. To a large extent this bill reinstated the 1994 ban, including the ban on the sale of new semiautomatic firearms deemed to be assault weapons, and of new LCMs holding more than 10 rounds. An important innovation is that for LCMs, the bill only allows continued possession and use of existing devices, but not transfer. However, given the reality that the US Senate will not enact this bill, it is useful to consider other approaches.

States could institute or expand assault weapon bans. Indeed, just a ban on LCMs would be a promising first step, impeding access to these products by individuals who could otherwise use them to fire multiple rounds of ammunition at large numbers of people before law enforcement can be mobilized to stop the killing.

Conclusions

In 2017, the *New York Times* polled “32 current or retired academics in criminology, public health and law, who have published extensively in peer-reviewed academic journals on gun policy”¹⁰ to ask them what measures would be most effective in dealing with the mass shooting problem in the US, and an assault weapons ban was deemed overall by this panel to be the single most effective measure. The evidence in support of a ban has grown tragically stronger since then.¹⁰

ARTICLE INFORMATION

Conflict of Interest Disclosures: Dr Donohue reported serving as an expert witness for various government entities on matters related to assault weapons bans based on his research in this area.

REFERENCES

1. Cook PJ, Goss KA. *The Gun Debate: What Everyone Needs to Know*. 2nd ed. Oxford University Press; 2020.
2. Koper CS. An updated assessment of the federal assault weapons ban: impacts on gun markets and gun violence, 1994-2003. Accessed September 6, 2022. <https://www.ojp.gov/pdffiles1/nij/grants/204431.pdf>
3. Bump P. Tallying America’s fascination with AR-15-style rifles. Accessed September 6, 2022. <https://www.washingtonpost.com/politics/2022/05/26/tallying-americas-fascination-with-ar-15-style-rifles/>
4. Smart R, Morral AR, Smucker S, et al. *The Science of Gun Policy*. RAND; 2020.
5. Duwe G. Patterns and prevalence of lethal mass violence. *Criminol Public Policy*. 2020;19(1):17-35. doi:10.1111/1745-9133.12478
6. Smart R, Schell TL. Mass shootings in the United States. Accessed September 6, 2022. <https://www.rand.org/research/gun-policy/analysis/essays/mass-shootings.html>
7. Violence Project. Mass shooter database: version 5.0. Accessed August 30, 2022. <https://www.theviolenceproject.org/mass-shooter-database/>
8. Wikipedia. Mass shootings in the United States. Accessed August 31, 2022. https://en.wikipedia.org/wiki/Mass_shootings_in_the_United_States
9. Chapman S, Alpers P, Jones M. Association between gun law reforms and intentional firearm deaths in Australia, 1979-2013. *JAMA*. 2016;316(3):291-299. doi:10.1001/jama.2016.8752
10. Sanger-Katz M, Bui Q. How to reduce mass shooting deaths? experts rank gun laws. Published October 5, 2017. Accessed September 6, 2022. <https://www.nytimes.com/interactive/2017/10/05/upshot/how-to-reduce-mass-shooting-deaths-experts-say-these-gun-laws-could-help.html>

AMERICA'S OLDEST CONTINUOUSLY PUBLISHED NEWSPAPER

Hartford Courant

VOLUME CLXXVI NUMBER 358

COURANT.COM • MOBILE.COURANT.COM

SUNDAY, DECEMBER 23, 2012

STARTING OVER

NEW SCHOOL, MADE FAMILIAR

Hundreds Of Volunteers Help Ease Transition For Sandy Hook Kids

By **BRIAN DOWLING**
bdowling@courant.com

Sandy Hook Elementary School students will find that volunteers have painted the walls of their new school green and white, their school colors. The movers set furniture, desks, computers and supplies in the same places as their old classrooms in Newtown. Volunteers pinned the same posters to new classroom walls.

The re-creation of Sandy Hook Elementary at Chalk Hill School in Monroe involved hundreds of people over the past week. Locksmiths, plumbers, electricians, custodians, experts in fire suppression and security systems, as well as residents with paint brushes, all volunteered time to create an around-the-clock renovation team, which peaked at 500 workers.

Thanks to that effort, the surroundings will be

CHALK HILL, A4



WFSB | POOL

THE WELCOME sign is ready at Chalk Hill School in Monroe, where Sandy Hook students will begin classes Jan. 3.



ADAM LANZA

Shooter Paused, And Six Escaped

By **DAVE ALTIMARI, EDMUND H. MAHONY and JON LENDER**
daltimari@courant.com

As many as a half-dozen first-graders may have survived Adam Lanza's deadly shooting spree at Sandy Hook Elementary School because he stopped firing briefly, perhaps to reload his rifle or because it jammed, according to law enforcement officials familiar with the events.

A source said that the Bushmaster rifle that Lanza used in the shootings is at the state police forensic laboratory undergoing several tests, including tests to determine whether it jammed.

The children escaped from the first-grade classroom of teacher Victoria Soto, one of the six educators Lanza killed in Newtown after shooting his way through a glass door with the .223-caliber semiautomatic rifle on the morning of Dec. 14.

On Friday, detectives obtained and began examining records related to psychiatric care Lanza had received

RIFLE, A6

TRAGEDY IN NEWTOWN

Rifle

Continued from Page A1

In an attempt to determine a motive, several friends of his mother have said that he had Asperger's syndrome but authorities have neither confirmed that nor indicated it had anything to do with the shootings.

Lanza killed 27 people — 20 children, four teachers, the school principal, a school psychologist and his mother, Nancy — before shooting himself in the head as police began arriving at the school.

The arriving officers encountered a shocking scene in Soto's classroom. Lanza had shot her, as well as special education teacher Anne Marie Murphy and six of Soto's 6- and 7-year-old students. Seven of Soto's students were found badly injured and unharmed in a classroom closet, apparently hidden by Soto when she heard shooting. The other students fled the classroom.

Based on initial statements from surviving children and the fact that unfired cartridges from Lanza's rifle were found on the ground, detectives suspect that some students were able to run to safety when Lanza stopped firing, probably for a short period of time, the officials said.

It is possible that Lanza, who reloaded the rifle frequently, mishandled or dropped a magazine and cartridges fall to the floor, they said.

But it also is possible, they said, that the mechanism that fed cartridges into the rifle jammed, causing Lanza to remove the magazine and clear the weapon. Unfired cartridges could have fallen to the classroom floor during that process as well, law enforcement officials said.

The six children who escaped Lanza's rampage ran to a home a short distance from the school. Upon reaching the home, one of the boys told the owner that "we obeyed the rules, we stayed on the sidewalk," one of the officials said.

The authorities have hurried generally from the children who ran away that something may have happened to Lanza's rifle that caused him to stop firing. The substance of the statements, which are not entirely consistent, is that a piece of the weapon, probably a magazine holding live cartridges, was dropped or fell to the classroom floor.

Investigators have decided not to formally interview the children, based on advice from Yale child psychologists. Given the chaotic nature of the scene, it is also possible that some children escaped while Lanza was shooting others.

State police are expected to wrap up work at the school and release the school as a crime scene in the next few days. They still are trying to determine how many shots Lanza fired.

Lanza killed himself in Soto's classroom with one of the two pistols he carried into the building. He killed himself as police entered the building.

Police found a loaded 20-round shotgun in the trunk of the car similar to what is known as a "street sweeper." Police believe that Lanza didn't bring it into the school because he couldn't carry all of the weapons and ammunition.

Lanza, who was about 6-foot tall, weighed barely 80 pounds, law enforcement sources said.

The few people who know Lanza have portrayed him in the days since the mass shootings as an awkward, emotionally isolated, withdrawn young man. He attended public schools in Newtown, but at times was home-schooled by his mother, who was said by authorities and others to be the only person with whom he was socially engaged.

Lanza lived with his mother. He had two bedrooms and used one of them to keep computer equipment on which he is said to have enjoyed playing video games involving violent war games.

Before the shootings at the elementary school, Lanza shot his mother four times with a .22-caliber rifle as she lay in bed. He left the rifle at the house. All the

guns were properly registered to Nancy Lanza. Anders Lanza also broke open his computer equipment in a way that has prevented authorities from receiving data that could reveal with whom he may have corresponded or played video games.

He then drove to the school, getting there about 9:30 a.m. He walked up to the front entrance and fired at least a half-dozen rounds into the glass doors. The

thunderous sound of Lanza blowing an opening big enough to walk through the locked school door caused Principal Dawn Hochsprung and school psychologist Henry Schuchman to bolt from a nearby meeting room to investigate.

He shot and killed them both as they ran toward him. Two other staff workers in a meeting with Hochsprung and Schuchman were injured in the hail of bullets but made it back inside the

conference room where one called out from under a table.

Lanza then turned toward the first classroom on his left, that of teacher Kathleen Roig. By then, authorities said, Roig had hidden with her students in a closet in her classroom. Before securing the closet door, which opened inward, authorities said she concealed the door behind a movable bookcase.

Lanza then walked past

Soto's classroom into the third one, where Lanza Roeweena was teaching. He shot and killed Roeweena, special education teacher Rachel D'Amico and 14 students.

One member of the class was not killed, although it is not clear if the child escaped the shooting or was not in the room.

"I think the community is very much respecting their privacy," Newtown schools Superintendent

Janet Robinson said of the student's family. "I think that everyone is very sensitive to what a horrific experience this 6-year-old — has been through."

Much later, after police had found Lanza's body and were searching for survivors, an officer had to slide a badge beneath the closet door before Roig could be persuaded to open it.

Gunshot staff writer Kristine Staudmann contributed to this story.

EVERY BOX HAS A STORY™
Unwrap a memory that will last a lifetime.

LUX BOND & GREEN
JEWELRY WATCHES GIFTS • SINCE 1898

LOW KEY
Low Key earrings \$55

SET OF PEARL
Set of pearl earrings \$40

CARTIER
Ballon Bleu timepieces

THE RIGHT PRICE EVERY DAY!
DIAMONDS
rings, bands, line bracelets, hoops and studs

LUX BOND & GREEN
The perfect last minute gift

180 GIFT CARDS

DAVID YURMAN
bracelets shown from \$550 others from \$375

SIMON PEARCE
Silver Lala watch \$40 each

JOHN HARDY
bracelets shown from \$375 others from \$275

RAYMOND WEIL
watches from \$750

CORKCICLE
Keeps your wine at just the right drinking temperature. \$24.95

G-SHOCK
watches from \$99 Baby-G from \$79

NESPRESSO
Ciz with Milk Lino espresso coffee machine \$299

RECEIVE \$100
Club Credit with any Nespresso machine purchase \$199 or above.

OPEN TODAY UNTIL 5:00 AND CHRISTMAS EVE DAY UNTIL 4:30

Shop online at www.luxbond.com | Online Diamond Search | Gift Cards | Gifts from \$25
Some items embargoed | Not all items are available in every store. | Subject to prior sale.

West Hartford (860) 521.3015 | Glastonbury (860) 659.8510 | Souff Windor (860) 644.0789
Mohagan Sun (860) 862.9900 | Greenwich (203) 629.0900 | Westport (203) 227.1300
Boston (617) 266.4747 | Welleley (781) 235.9119 | (800) 524.7336

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai'i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

**DECLARATION OF RANDOLPH
ROTH**

DECLARATION OF RANDOLPH ROTH

I, Randolph Roth, declare under penalty of perjury that the following is true and correct:

1. I am an Arts and Sciences Distinguished Professor of History and Sociology at The Ohio State University. I have personal knowledge of the facts set forth in this declaration, and if called upon as a witness, I could and would testify competently as to those facts.

2. I have been retained by the Department of the Attorney General, State of Hawai'i, to render expert opinions in this case. I am being compensated at a rate of \$250 per hour.

BACKGROUND AND QUALIFICATIONS

3. I received a B.A. in History with Honors and Distinction in 1973 from Stanford University, where I received the James Birdsall Weter Prize for the outstanding honors thesis in History. I received a Ph.D. in History in 1981 from Yale University, where I received the Theron Rockwell Field Prize for the outstanding dissertation in the humanities and the George Washington Eggleston Prize for the outstanding dissertation in American history. I have taught courses in history, the social sciences, and statistics since 1978, with a focus on criminology and the history of crime. A true and correct copy of my curriculum vitae is attached as **Exhibit A** to this declaration.

4. I am the author of *American Homicide* (The Belknap Press of the Harvard University Press, 2009), which received the 2011 Michael J. Hindelang Award from the American Society of Criminology awarded annually for the book published over the three previous years that “makes the most outstanding contribution to research in criminology over the previous three years,”¹ and the 2010 Allan Sharlin Memorial Book Award from the Social Science History Association for outstanding books in social science history.² *American Homicide*

¹ See American Society of Criminology, Michel J. Hindelang outstanding Book Award Recipients, <https://asc41.com/about-asc/awards/michael-j-hindelang-outstanding-book-award-recipients/>.

² See Social Science History Association, Allan Sharlin Memorial Book Award, https://ssha.org/awards/sharlin_award/.

was also named one of the Outstanding Academic Books of 2010 by *Choice*, and the outstanding book of 2009 by *reason.com*. The book is an interregional, internationally comparative study of homicide in the United States from colonial times to the present. I am a Fellow of the American Association for the Advancement of Science, and I have served as a member of the National Academy of Sciences Roundtable on Crime Trends, 2013-2016, and as a member of the Editorial Board of the *American Historical Review*, the most influential journal in the discipline. And in 2022 I received the inaugural Distinguished Scholar Award from the Historical Criminology Division of the American Society of Criminology.

5. I am the principal investigator on the National Homicide Data Improvement Project, a project funded by the National Science Foundation (SES-1228406, https://www.nsf.gov/awardsearch/showAward?AWD_ID=1228406) and the Harry Frank Guggenheim Foundation to improve the quality of homicide data in the United States from 1959 to the present. The pilot project on Ohio has drawn on a wide range of sources in its effort to create a comprehensive database on homicides (including narratives of each incident) based on the mortality statistics of the Ohio Department of Health, the confidential compressed mortality files of the National Center for Health Statistics, the F.B.I.'s Supplementary Homicide Reports, death certificates, coroner's reports, the homicide case files of Cincinnati, Cleveland, and Columbus, obituaries, and newspaper accounts.

6. I have published numerous essays on the history of violence and the use of firearms in the United States, including a) “Guns, Gun Culture, and Homicide: The Relationship between Firearms, the Uses of Firearms, and Interpersonal Violence in Early America,” *William and Mary Quarterly* (2002) 59: 223-240 (https://www.jstor.org/stable/3491655#metadata_info_tab_contents); b) “Counting Guns: What Social Science Historians Know and Could Learn about Gun Ownership, Gun Culture, and Gun Violence in the United States,” *Social Science History* (2002) 26: 699-708 (https://www.jstor.org/stable/40267796#metadata_info_tab_contents); c) “Why Guns Are and Aren’t the Problem: The Relationship between Guns and Homicide in American History,” in Jennifer Tucker, Barton C. Hacker, and Margaret Vining, eds., *A Right to Bear Arms? The Contested Role of History in Contemporary Debates on the Second Amendment* (Washington, D.C.: Smithsonian Institution Scholarly Press, 2019); and d) “The Opioid Epidemic and Homicide in the United States,” co-authored with Richard Rosenfeld and Joel Wallman, in the *Journal of Research in Crime and Delinquency* (2021) (https://www.researchgate.net/publication/348513393_The_Opioid_Epidemic_and_Homicide_in_the_United_States).

7. I am also co-founder and co-director of the Historical Violence Database. The web address for the Historical Violence Database is:

<http://cjrc.osu.edu/research/interdisciplinary/hvd>. The historical data on which this declaration draws are available through the Historical Violence Database. The Historical Violence Database is a collaborative project by scholars in the United States, Canada, and Europe to gather data on the history of violent crime and violent death (homicides, suicides, accidents, and casualties of war) from medieval times to the present. The project is described in Randolph Roth et al., “The Historical Violence Database: A Collaborative Research Project on the History of Violent Crime and Violent Death.” *Historical Methods* (2008) 41: 81-98 (https://www.tandfonline.com/doi/pdf/10.3200/HMTS.41.2.81-98?casa_token=PfjkmSciOwAAAAA:1HrNKToUGfQT4T-L4wqloRc2DFsM4eRmKEc346vchboaSh-X29CkEdqIe8bMoZjBNdk7yNh_aAU).

The only way to obtain reliable historical homicide estimates is to review every scrap of paper on criminal matters in every courthouse (indictments, docket books, case files, and judicial proceedings), every jail roll and coroner’s report, every diary and memoir, every article in every issue of a number of local newspapers, every entry in the vital records, and every local history based on lost sources, local tradition, or oral testimony. That is why it takes months to study a single rural county, and years to study a single city.³

³ It is also essential, in the opinion of historians and historical social scientists involved in the Historical Violence Database, to use capture-recapture (continued...)

8. My work on data collection and my research for *American Homicide*, together with the research I have conducted for related essays, has helped me gain expertise on the causes of homicide and mass violence, and on the role technology has played in changing the nature and incidence of homicide and mass violence. I hasten to add that the insights that my colleagues and I have gained as social science historians into the causes of violence and the history of violence in the United States stem from our tireless commitment to empiricism. Our goal is to gather accurate data on the character and incidence of violent crimes and to follow the evidence wherever it leads, even when it forces us to accept the fact that a hypothesis we thought might be true proved false. As my colleagues and I are

mathematics, when multiple sources are available, to estimate the number of homicides where gaps or omissions exist in the historical record. The method estimates the percentage of the likely number of homicides that appear in the surviving records by looking at the degree to which homicides reported in the surviving legal sources overlap with homicides reported in the surviving non-legal sources (newspapers, vital records, diaries, etc.). A greater degree of overlap means a higher percentage in the surviving records and a tighter confidence interval. A lesser degree of overlap, which typically occurs on contested frontiers and during civil wars and revolutions, means a lower percentage and a wider confidence interval. See Randolph Roth, "American Homicide Supplemental Volume: Homicide Estimates" (2009) (<https://cjrc.osu.edu/sites/cjrc.osu.edu/files/AHSV-Homicide-Estimates.pdf>); Roth, "Child Murder in New England," *Social Science History* (2001) 25: 101-147 (https://www.jstor.org/stable/1171584#metadata_info_tab_contents); Roth and James M. Denham, "Homicide in Florida, 1821-1861: A Quantitative Analysis," *Florida Historical Quarterly* 86 (2007): 216-239; and Douglas L. Eckberg, "Stalking the Elusive Homicide: A Capture-Recapture Approach to the Estimation of Post-Reconstruction South Carolina Killings." *Social Science History* 25 (2001): 67-91 (https://www.jstor.org/stable/1171582#metadata_info_tab_contents).

fond of saying in the Criminal Justice Network of the Social Science History Association, the goal is not to be right, but to get it right. That is the only way to design effective, pragmatic, nonideological laws and public policies that can help us address our nation's problem of violence.

9. I have previously served as an expert witness in cases concerning the constitutionality of state and municipal gun laws, including *Miller v. Bonta*, No. 3:19-cv-1537 (S.D. Cal.); *Duncan v. Bonta*, No. 3:17-cv-1017 (S.D. Cal.); *Ocean State Tactical v. Rhode Island*, No. 22-cv-246 (D.R.I.); *Hanson v. District of Columbia*, No. 1:22-cv-02256-RC (D.C.); *State of Vermont v. Max B. Misch*; No. 172-2-19 BNCR (B.C.D.), *National Association for Gun Rights and Capen v. Healey*, No. 22-cv-11431-FDS (D.MA.); *National Association for Gun Rights, and Susan Karen Goldman v. City of Highland Park, Illinois*, No. 1:22-cv-04774 (N.D. Ill. Eastern Division); and *Steven Rupp et al. and California Rifle and Pistol Association v. Bonta*, 8:17-cv-00746-JLS-JDE (CA. Central District Western Division).

OPINIONS

I. SUMMARY OF OPINIONS

10. I have been asked by the Department of the Attorney General, State of Hawaii, to provide opinions on the history of homicides and mass murders in the United States, with special attention to the role that technologies have played in

shaping the character and incidence of homicides and mass murders over time, and the historical restrictions that local and federal authorities have imposed in response to new technologies that they deemed particularly lethal, prone to misuse, and a danger to the public because of the ways in which they reshaped the character and incidence of homicides and mass murders.

11. For the past thirty-five years, I have dedicated my career to understanding why homicide rates rise and fall over time, in hopes of understanding why the United States—which, apart from the slave South, was perhaps the least homicidal society in the Western world in the early nineteenth century—became by far the most homicidal, as it remains today. I discovered that the key to low homicide rates over the past 450 years has been successful nation-building. High homicide rates among unrelated adults—friends, acquaintances, strangers—coincide with political instability, a loss of trust in government and political leaders, a loss of fellow feeling among citizens, and a lack of faith in the justice of the social hierarchy.⁴ As a nation, we are still feeling the aftershocks of

⁴ See Randolph Roth, “Measuring Feelings and Beliefs that May Facilitate (or Deter) Homicide,” *Homicide Studies* (2012) 16: 196-217 (https://journals.sagepub.com/doi/pdf/10.1177/1088767912442501?casa_token=dkP_nZZxCaYAAAAA:vL522E2inh9U2gr4X2qAhPnqRminWEjLv8nbwrNEhqNpRliTesFI_1SDY6tepvZbjwiRWPEom7M), for an introduction to the ways that social science historians can measure the feelings and beliefs that lead to successful nation-building. My research has shown that those measures have gone up and down with homicide rates among unrelated adults in the United States from
(continued...)

our catastrophic failure at nation-building in the mid- and late-nineteenth century, from the political crisis of the late 1840s and 1850s through the Civil War, Reconstruction, and the rise of Jim Crow.

12. Our nation's homicide rate would thus be high today even in the absence of modern technologies that have made firearms far more capable of injuring multiple people over a short span of time than they were in the colonial and Revolutionary era. But the evidence also shows that the availability of guns and changes in firearms technology, especially the emergence of modern breech-loading firearms in the mid-nineteenth century, and of rapid-fire semiautomatic weapons and extended magazines in the late twentieth century, have pushed the homicide rate in United States well beyond what it would otherwise have been.

13. My opinion will address in turn: 1) firearms restrictions on colonists from the end of the seventeenth century to the eve of the Revolution, when homicide rates were low among colonists and firearms were seldom used in homicides among colonists when they did occur; 2) the development during the Founding and Early National periods of laws restricting the use or ownership of concealable weapons in slave and frontier states, where homicide rates among

colonial times to the present. In social science history, as in the non-experimental historical sciences (geology, paleontology, evolutionary biology), correlations that persist across wide stretches of time and space are not random. They reveal deep patterns that are causal.

persons of European ancestry soared after the Revolution in large part because of the increased manufacture and ownership of concealable percussion cap pistols and fighting knives; 3) the spread of restrictions on carrying concealed weapons in every state by World War I, as homicide rates rose across the nation, beginning around the time of the Mexican War of 1846-1848 and lasting until World War I—a rise caused in part by the invention of modern revolvers, which were used in a majority of homicides by the late nineteenth century; 4) the difficulty that local and federal officials faced from the colonial era into the early twentieth century in addressing the threat of mass murders, which, because of the limitations of existing technologies, were carried out by large groups of individuals acting in concert, rather than by individuals or small groups; and 5) the spread of restrictions in the twentieth and early twenty-first centuries on new technologies, including rapid-fire firearms and large capacity magazines, that changed the character of mass murder, by enabling individuals or small groups to commit mass murder.

II. GOVERNMENT REGULATION OF FIREARMS IN RESPONSE TO HOMICIDE TRENDS

A. Homicide and Firearms in the Colonial Era (1688-1763)

14. In the eighteenth century, the use and ownership of firearms by Native Americans and African Americans, enslaved and free, were heavily regulated.⁵

⁵ Clayton E. Cramer, “Colonial Firearms Regulation” (April 6, 2016). Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2759961.

But laws restricting the use or ownership of firearms by colonists of European ancestry were rare, for two reasons. First, homicide rates were low among colonists from the Glorious Revolution of 1688-1689 through the French and Indian War of 1754-1763, thanks to political stability, a surge in patriotic fellow feeling within the British empire, and greater trust in government.⁶ By the late 1750s and early 1760s, the rates at which adult colonists were killed were roughly 5 per 100,000 adults per year in Tidewater Virginia, 3 per 100,000 in Pennsylvania, and 1 per 100,000 in New England.⁷ Violence among colonists was not a pressing problem on the eve of the Revolution.

15. Second, the impact of firearms on the homicide rate was modest, even though household ownership of firearms was widespread. Approximately 50 to 60 percent of households in the colonial and Founding eras owned a working firearm,

⁶ Randolph Roth, *American Homicide* (Cambridge: The Belknap Press of Harvard University Press, 2009), 63, noting that “Fear of Indians and slaves, hatred of the French, enthusiasm for the new colonial and imperial governments established by the Glorious Revolution, and patriotic devotion to England drew colonists together. The late seventeenth century thus marks the discernible beginning of the centuries-long pattern linking homicide rates in America with political stability, racial, religious, and national solidarity, and faith in government and political leaders.”

⁷ Roth, *American Homicide*, 61-63, and especially the graphs on 38, 39, and 91. By way of comparison, the average homicide rate for adults in the United States from 1999 through 2016—an era in which the quality of emergency services and wound care was vastly superior to that in the colonial era—was 7 per 100,000 per year. See CDC Wonder Compressed Mortality Files, ICD-10 (<https://wonder.cdc.gov/cmfi-icd10.html>, accessed September 8, 2022).

usually a musket or a fowling piece.⁸ Fowling pieces, like muskets, were muzzle-loading. But unlike muskets, which were heavy, single-shot firearms used for militia service, fowling pieces were manufactured specifically to hunt birds and control vermin, so they were designed to fire shot, primarily, rather than ball, and were of lighter construction than muskets.⁹ Family, household, and intimate partner homicides were rare, and only 10 to 15 percent of those homicides were committed with guns. In New England, the rate of family and intimate partner homicides stood at only 2 per million persons per year for European Americans and 3 per million for African Americans for the seventeenth and most of the eighteenth century, and fell to 1 per million for both European and African Americans after the Revolution. The rates in the Chesapeake were likewise low, at 8 per million per year for European Americans and 4 to 5 per million for African Americans.¹⁰ And because the homicide rate among unrelated adults was low, the proportion of nondomestic homicides committed with guns was similarly low—never more than 10 to 15 percent.¹¹

⁸ Randolph Roth, “Why Guns Are and Aren’t the Problem: The Relationship between Guns and Homicide in American History,” in Jennifer Tucker, Barton C. Hacker, and Margaret Vining, eds., *Firearms and the Common Law: History and Memory* (Washington, D.C.: Smithsonian Institution Scholarly Press, 2019), 116.

⁹ See, e.g., Kevin M. Sweeney, “Firearms, Militias, and the Second Amendment,” in Saul A. Cornell and Nathan Kozuskanich, eds., *The Second Amendment on Trial: Critical Essays on District of Columbia v. Heller* (University of Massachusetts Press, 2013), 310, 327 & nn. 101-102.

¹⁰ Roth, “Why Guns Are and Aren’t the Problem,” 116.

¹¹ *Ibid.*, 116-119.

16. Firearm use in homicides was generally rare because muzzle-loading firearms, such as muskets and fowling pieces, had significant limitations as murder weapons in the colonial era.¹² They were lethal and accurate enough at short range, but they were liable to misfire, given the limits of flintlock technology; and with the exception of a few double-barreled pistols, they could not fire multiple shots without reloading.¹³ They could be used effectively to threaten and intimidate, but once they were fired (or misfired), they lost their advantage: they could only be used as clubs in hand-to-hand combat. They had to be reloaded manually to enable the firing of another shot, which was a time-consuming process that required skill and experience.¹⁴ And more important, muzzle-loading firearms could not be used impulsively unless they were already loaded for some other purpose.¹⁵ It took at least half a minute (and plenty of elbow room) to load a muzzle-loader if the weapon was clean and if powder, wadding, and shot or ball were at hand.¹⁶ The user had to pour powder down the barrel, hold it in place with wadding, and drop

¹² Ibid., 117.

¹³ Ibid.

¹⁴ Harold L. Peterson, *Arms and Armor in Colonial America, 1526-1783* (New York: Bramhall House, 1956), 155-225; Priya Satia, *Empire of Guns: The Violent Making of the Industrial Revolution* (New York: Penguin Press, 2018), 9-10; and Satia, “Who Had Guns in Eighteenth Century Britain?” in Tucker, Hacker, and Vining, *Firearms and the Common Law*, 41-44.

¹⁵ Roth, “Why Guns Are and Aren’t the Problem,” 117.

¹⁶ Ibid.

or ram the shot or ball onto the charge.¹⁷ The firing mechanism also had to be readied, often with a fresh flint.¹⁸ And muzzle-loading guns were difficult to keep loaded for any length of time, because black powder absorbed moisture and could corrode the barrel or firing mechanism or make the charge liable to misfire.¹⁹ The life of a charge could be extended by storing a gun in a warm, dry place, typically over a fireplace, but even there, moisture from boiling pots, drying clothes, or humid weather could do damage.²⁰ That is why most owners stored their guns empty, cleaned them regularly, and loaded them anew before every use.²¹

17. The infrequent use of guns in homicides in colonial America reflected these limitations. Family and household homicides—most of which were caused by abuse or fights between family members that got out of control—were committed almost exclusively with hands and feet or weapons that were close to hand: whips, sticks, hoes, shovels, axes, or knives.²² It did not matter whether the type of homicide was rare—like family and intimate homicides—or common, like murders of servants, slaves, or owners committed during the heyday of indentured

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.; and Herschel C. Logan, *Cartridges: A Pictorial Digest of Small Arms Ammunition* (New York: Bonanza Books, 1959), 11-40, 180-183.

²² Roth, “Why Guns Are and Aren’t the Problem,” 117.

servitude or the early years of racial slavery.²³ Guns were not the weapons of choice in homicides that grew out of the tensions of daily life.²⁴

18. When colonists anticipated violence or during times of political instability gun use was more common. When homicide rates were high among unrelated adults in the early and mid-seventeenth century, colonists went armed to political or interpersonal disputes,²⁵ so the proportion of homicides committed with firearms was at that time 40 percent and rose even higher in contested areas on the frontier.²⁶ Colonists also armed themselves when they anticipated hostile encounters with Native Americans, so 60 percent of homicides of Native Americans by European Americans in New England were committed with firearms.²⁷ And slave catchers and posses kept their firearms at the ready, so 90 percent of runaway slaves who were killed in Virginia were shot.²⁸ Otherwise, however, colonists seldom went about with loaded guns, except to hunt, control

²³ Ibid.

²⁴ Ibid. Contrary to popular belief, dueling was also rare in colonial America. Roth, *American Homicide*, 45, 158.

²⁵ Roth, “Why Guns Are and Aren’t the Problem,” 118-119.

²⁶ Ibid., 116-117.

²⁷ Ibid., 118-119 (reporting that “In New England, 57 percent of such homicides were committed with guns between the end of King Phillip’s War in 1676 and the end of the eighteenth century”).

²⁸ Ibid., 118 (reporting that “Petitions to the Virginia House of Burgesses for compensation for outlawed slaves who were killed during attempts to capture them indicate that 90 percent were shot”).

vermin, or muster for militia training.²⁹ That is why firearms had a modest impact on homicide rates among colonists.

B. The Rise in Violence in the South and on Contested Frontiers during the Early National Period, the Role of New Technologies and Practices, and Regulations on Concealable Weapons (1790s-1840s)

19. The Founding Generation was zealous in its defense of the people's rights, and so enshrined them in the Constitution. At the same time, they recognized that some citizens could be irresponsible or motivated by evil intent and could thus threaten the security of the government and the safety of citizens.³⁰ The threats that such citizens posed to public safety could be checked in most instances by ordinary criminal statutes, drawn largely from British common law. But at times those threats could be checked only by statutes that placed limits on basic rights.³¹

²⁹ Ibid., 118-119.

³⁰ On the fears of the Founders that their republic might collapse because selfish or unscrupulous citizens might misuse their liberties, see Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (Chapel Hill: University of North Carolina Press, 1969), 65-70, 282-291, 319-328, 413-425, 463-467; Drew R. McCoy, *The Last of the Fathers: James Madison and the Republican Legacy* (New York: Cambridge University Press, 1989), 42-45; and Andrew S. Trees, *The Founding Fathers and the Politics of Character* (Princeton: Princeton University Press, 2003), 6-9, 60-65, 86-104, 113-114.

³¹ On the Founders' belief that rights might have to be restricted in certain instances, see Terri Diane Halperin, *The Alien and Sedition Acts: Testing the Constitution* (Baltimore: Johns Hopkins University Press, 2016), 1-8, on restraints on freedom of speech and the press during the administration of John Adams;
(continued...)

20. The Founders were aware that the rate at which civilians killed each other or were killed by roving bands of Tories or Patriots rose during the Revolution.³² And they recognized that more civilians, expecting trouble with

Leonard Levy, *Jefferson and Civil Liberties: The Darker Side* (Cambridge: The Belknap Press of Harvard University Press, 1963), 93-141, on loosening restrictions on searches and seizures during the administration of Thomas Jefferson; and Patrick J. Charles, *Armed in America: A History of Gun Rights from Colonial Militias to Concealed Carry* (New York: Prometheus Books, 2018), 70-121, especially 108-109, as well as Saul Cornell, *A Well-Regulated Militia: The Founding Fathers and the Origins of Gun Control in America* (New York: Oxford University Press, 2006), 39-70, and Jack N. Rakove, “The Second Amendment: The Highest State of Originalism,” in Carl T. Bogus, ed., *The Second Amendment in Law and History: Historians and Constitutional Scholars on the Right to Bear Arms* (New York: The New Press, 2000), 74-116, on the limited scope of the Second Amendment. Jack N. Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York: Alfred A. Knopf, 1996), 291, notes that “Nearly all the activities that constituted the realms of life, liberty, property, and religion were subject to regulation by the state; no obvious landmarks marked the boundaries beyond which its authority could not intrude, if its actions met the requirements of law.” See also Rakove, “The Second Amendment: The Highest State of Originalism,” *Chicago-Kent Law Review* 76 (2000), 157 (<https://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=3289&context=cklawreview>): “[At] the time when the Second Amendment was adopted, it was still possible to conceive of statements of rights in quite different terms, as assertions or confirmations of vital principles, rather than the codification of legally enforceable restrictions or commands.”

³² Roth, *American Homicide*, 145-149; Holger Hoock, *Scars of Independence: America’s Violent Birth* (New York: Broadway Books / Penguin Random House, 2017), 308-322; Alan Taylor, *Divided Ground: Indians, Settlers, and the Northern Borderland of the American Revolution* (New York: Knopf, 2006), 91-102; George C. Daughan, *Revolution on the Hudson: New York City and the Hudson River Valley in the American War for Independence* (New York: W. W. Norton, 2016), 137-138; John B. Frantz and William Pencak, eds., *Beyond Philadelphia: The American Revolution in the Pennsylvania Hinterland* (University Park: Pennsylvania State University Press, 1998), 42-43, 141-145, 149-
(continued...)

neighbors, public officials, and partisans, were likely to go about armed during the Revolution, which is why the proportion of homicides of European Americans by unrelated adults rose to 33 percent in Virginia and 46 percent in New England.³³ But the surge in violence ended in New England, the Mid-Atlantic states, and the settled Midwest once the Revolutionary crisis was over. In those areas homicide rates fell to levels in some instances even lower than those which had prevailed in the early and mid-eighteenth century. By the 1820s, rates had fallen to 3 per 100,000 adults per year in Cleveland and Philadelphia, to 2 per 100,000 in rural Ohio, and to 0.5 per 100,000 in northern New England. Only New York City stood out, at 6 per 100,000 adults per year.³⁴ And the proportion of domestic and nondomestic homicides committed with firearms was correspondingly low—between 0 and 10 percent—because people once again generally refrained, as they had from the Glorious Revolution through the French and Indian War, from going about armed, except to hunt, control vermin, or serve in the militia.³⁵

152; Francis S. Fox, *Sweet Land of Liberty: the Ordeal of the American Revolution in Northampton County, Pennsylvania* (University Park: Pennsylvania State University Press, 2000), 25-27, 32, 64-65, 91-92, 114; and Fox Butterfield, *All God's Children: The Bosket Family and the American Tradition of Violence* (New York: Vintage, 1996), 3-18.

³³ Roth, "Why Guns Are and Aren't the Problem," 119-120.

³⁴ Roth, *American Homicide*, 180, 183-186; and Eric H. Monkkonen, *Murder in New York City* (Berkeley: University of California Press, 2001), 15-16.

³⁵ For detailed figures and tables on weapons use in homicides by state, city, or county, see Roth, "American Homicide Supplemental Volume: Weapons,"
(continued...)

21. The keys to these low homicide rates and low rates of gun violence in New England, the Mid-Atlantic states, and the settled Midwest were successful nation-building and the degree to which the promise of the democratic revolution was realized. Political stability returned, as did faith in government and a strong sense of patriotic fellow feeling, as the franchise was extended and political participation increased.³⁶ And self-employment—the bedrock of citizenship, self-respect, and respect from others—was widespread. By 1815, roughly 80 percent of women and men owned their own homes and shops or farms by their mid-thirties; and those who did not were often white-collar professionals who also received respect from their peers.³⁷ African Americans still faced discrimination and limits on their basic rights in most Northern states. But despite these barriers, most African Americans in the North were optimistic, after slavery was abolished in the North, about earning their own living and forming their own churches and voluntary organizations.³⁸

available through the Historical Violence Database, sponsored by the Criminal Justice Research Center at the Ohio State University (<https://cjrc.osu.edu/sites/cjrc.osu.edu/files/AHSV-Weapons-10-2009.pdf>). On weapons use in homicides in the North, see Figures 25 through 46.

³⁶ Roth, *American Homicide*, 180, 183-186.

³⁷ *Ibid.*, 180, 183-186.

³⁸ *Ibid.*, 181-182, 195-196; Leon F. Litwack, *North of Slavery: The Negro in the Free States, 1790-1860* (Chicago: University of Chicago Press, 1961); Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and "Race" in New England, 1780-1860* (Ithaca: Cornell University Press, 1998); Sean White,
(continued...)

22. That is why there was little interest among public officials in the North in restricting the use of firearms during the Early National period, except in duels. They took a strong stand against dueling in the wake of Alexander Hamilton's death, because of the threat the practice posed for the nation's democratic polity and the lives of public men: editors, attorneys, military officers, and politicians.³⁹

23. Laws restricting the everyday use of firearms did appear, however, in the early national period in a number of slave states,⁴⁰ where violence among citizens increased after the Revolution to extremely high levels. Revolutionary ideas and aspirations wreaked havoc on the status hierarchy of the slave South, where homicide rates ranged from 8 to 28 per 100,000 adults per year.⁴¹ Poor and middle-class whites were increasingly frustrated by their inability to rise in a

Somewhat More Independent: The End of Slavery in New York City, 1780-1810 (Athens: University of Georgia Press, 1991); and Graham R. Hodges, *Root and Branch: African Americans in New York and East Jersey, 1613-1863* (Chapel Hill: University of North Carolina Press, 1999).

³⁹ Joanne B. Freeman, *Affairs of Honor: National Politics in the New Republic* (New Haven: Yale University Press, 2001); and C. A. Harwell, "The End of the Affair? Anti-Dueling Laws and Social Norms in Antebellum America," *Vanderbilt Law Review* 54 (2001): 1805-1847 (<https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=1884&context=vlr>).

⁴⁰ Clayton E. Cramer, *Concealed Weapons Laws of the Early Republic: Dueling, Southern Violence, and Moral Reform* (Westport, Connecticut: Praeger, 1999); and Cornell, *Well-Regulated Militia*, 141-144.

⁴¹ Roth, *American Homicide*, 180, 199-203.

society that remained class-bound and hierarchical.⁴² Prominent whites were subjected to the rough and tumble of partisan politics and their position in society was threatened by people from lower social positions.⁴³ African Americans despaired over the failure of the abolition movement in the South, and whites were more fearful than ever of African American rebellion.⁴⁴ As a result, impatience with restraint and sensitivity to insult were more intense in the slave South, and during this period the region saw a dramatic increase in the number of deadly quarrels, property disputes, duels, and interracial killings.⁴⁵ The violence spread to frontier Florida and Texas, as well as to southern Illinois and Indiana—wherever Southerners settled in the early national period.⁴⁶ During the Early National period, the proportion of homicides committed with firearms went up accordingly, to a third or two-fifths, as Southerners armed themselves in anticipation of trouble, or set out to cause trouble.⁴⁷

⁴² Ibid., 182.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid., 182, 199-203.

⁴⁶ Ibid., 162, 180-183, 199-203; Roth and James M. Denham, “Homicide in Florida, 1821-1861,” *Florida Historical Quarterly* 86 (2007): 216-239; John Hope Franklin, *The Militant South, 1800-1861* (Cambridge: Belknap Press of Harvard University Press, 1961); and Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (New York: Oxford University Press, 1982).

⁴⁷ Roth, “American Homicide Supplemental Volume: Weapons,” Figures 51 through 57.

24. Citizens and public officials in these states recognized that concealable weapons—pistols, folding knives, dirk knives, and Bowie knives—were used in an alarming proportion of the era’s murders and serious assaults.⁴⁸ They were used to ambush both ordinary citizens and political rivals, to bully or intimidate law-abiding citizens, and to seize the advantage in fist fights. As the Grand Jurors of Jasper County, Georgia, stated in a plea to the state legislature in 1834 for restrictions on concealable weapons,

The practice which is common amongst us with the young the middle aged and the aged to arm themselves with Pistols, dirks knives sticks & spears under the specious pretence of protecting themselves against insult, when in fact being so armed they frequently insult others with impunity, or if resistance is made the pistol dirk or club is immediately resorted to, hence we so often hear of the stabbing shooting & murdering so many of our citizens.⁴⁹

The justices of the Louisiana Supreme Court echoed these sentiments—“unmanly” men carried concealed weapons to gain “secret advantages” over their adversaries.⁵⁰ These concealed weapons laws were notably difficult to enforce, however, and did not address underlying factors that contributed to rising homicide rates. Nevertheless, these laws represent governmental efforts at that time to address the use of new weapons in certain types of crime.

⁴⁸ Roth, *American Homicide*, 218.

⁴⁹ *Ibid.*, 218-219. See also the concerns of the Grand Jurors of Wilkes County, Georgia, Superior Court Minutes, July 1839 term.

⁵⁰ Roth, *American Homicide*, 219.

25. The pistols of the early national period represented a technological advance. Percussion-lock mechanisms enabled users to extend the life of a charge, because unlike flint-lock mechanisms, they did not use hydroscopic black powder in their priming pans; they used a sealed mercury-fulminate cap as a primer and seated it tightly on a small nipple (with an inner diameter the size of a medium sewing needle) at the rear of the firing chamber, which restricted the flow of air and moisture to the chamber. Percussion cap pistols, which replaced flint-lock pistols in domestic markets by the mid-1820s, could thus be kept loaded and carried around for longer periods without risk of corrosion.⁵¹ The new types of knives available in this era also represented technological advances over ordinary knives because they were designed expressly for fighting. Dirks and Bowie knives had longer blades than ordinary knives, crossguards to protect the combatants' hands, and clip points to make it easier to cut or stab opponents.⁵²

26. The violence in the slave South and its borderlands, and the technological advances that exacerbated it, led to the first prohibitions against carrying certain concealable weapons, which appeared in Kentucky, Louisiana, Indiana, Arkansas, Georgia, and Virginia between 1813 and 1838. These laws

⁵¹ Roth, "Why Guns Are and Aren't the Problem," 117.

⁵² Harold L. Peterson, *American Knives: The First History and Collector's Guide* (New York: Scribner, 1958), 25-70; and Peterson, *Daggers and Fighting Knives in the Western World, from the Stone Age till 1900* (New York: Walker, 1968), 67-80.

differed from earlier laws that restricted access to arms by Native Americans or by free or enslaved African Americans, because they applied broadly to *everyone* but also applied more *narrowly* to certain types of weapons and to certain types of conduct. Georgia’s 1837 law “against the unwarrantable and too prevalent use of deadly weapons” was the most restrictive. It made it unlawful for merchants

and any other person or persons whatsoever, to sell, or offer to sell, or to keep, or have about their person or elsewhere . . . Bowie, or any other kind of knives, manufactured or sold for the purpose of wearing, or carrying the same as arms of offence or defence, pistols, dirks, sword canes, spears, &c.

The sole exceptions were horseman’s pistols—large weapons that were difficult to conceal and were favored by travelers. But the laws in the other five states were also strict: they forbid the carrying of concealable weapons in all circumstances. Indiana made an exemption for travelers.⁵³

27. Thus, during the lifetimes of Jefferson, Adams, Marshall, and Madison, the Founding Generation passed laws in a number of states that restricted

⁵³ Cramer, *Concealed Weapons Laws*, especially 143-152, for the texts of those laws. Alabama and Tennessee prohibited the concealed carrying of fighting knives, but not pistols. See also the Duke Center for Firearms Law, Repository of Historical Gun Laws (https://firearmslaw.duke.edu/search-results/?_sft_subjects=dangerous-or-unusual-weapons, accessed September 9, 2022). Note that the Georgia Supreme Court, in *Nunn v. State*, 1 Ga. 243 (1846), held that prohibiting the concealed carry of certain weapons was valid, but that the state could not also prohibit open carry, which would destroy the right to bear arms. That decision put Georgia in line with the five other states that had prohibited the carrying of concealable firearms.

the use or ownership of certain types of weapons after it became obvious that those weapons, including certain fighting knives and percussion-cap pistols, were being used in crime by people who carried them concealed on their persons and were thus contributing to rising crime rates.⁵⁴

C. Homicide, Concealable Weapons, and Concealable Weapons Regulations from the Mexican War through the Early Twentieth Century (1846-1920s)

28. By the early twentieth century, every state either banned concealed firearms or placed severe restrictions on their possession.⁵⁵ They did so in

⁵⁴ Cramer, *Concealed Weapons Laws*, 69-96; Cramer, *For the Defense of Themselves and the State: The Original Intent and Judicial Interpretation of the Right to Keep and Bear Arms* (Westport, Connecticut: Praeger Publishers, 1994); Don B. Kates, Jr., “Toward a History of Handgun Prohibition in the United States,” in Cates, ed., *Restricting Handguns: The Liberal Skeptics Speak Out* (Croton-on-Hudson, New York: North River Press, 1979), 7-30; and Philip D. Jordan, *Frontier Law and Order—10 Essays* (Lincoln: University of Nebraska Press, 1970), 1-22. Thomas Jefferson and John Adams died on July 4, 1826, John Marshall on July 6, 1835, and James Madison on July 28, 1836. On the history of firearms regulations that pertained to African Americans, see Robert J. Cottrol and Raymond T. Diamond, “The Second Amendment: Toward an Afro-Americanist Reconsideration,” *Georgetown Law Journal* 80 (1991): 309-361 (https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1283&context=faculty_scholarship); Cottrol and Diamond, “Public Safety and the Right to Bear Arms” in David J. Bodenhamer and James W. Ely, Jr., eds., *The Bill of Rights in Modern America*, revised and expanded (Bloomington: Indiana University Press, 2008), 88-107; and Cramer, *For the Defense of Themselves and the State*, 74, 83-85, 97-140.

⁵⁵ Kates, “Toward a History of Handgun Prohibition,” 7-30; and Jordan, *Frontier Law and Order*, 17-22. These sources identify laws that either banned concealed firearms or placed severe restrictions on their possession in every state except Vermont. However, Vermont also had such a law by the early twentieth (continued...)

response to two developments: the nationwide surge in homicide rates, from the North and South to the Trans-Mississippi West; and the invention of new firearms, especially the revolver, which enabled the firing of multiple rounds in succession without reloading and made the homicide problem worse. Between the mid-nineteenth and the early twentieth century homicide rates fell in nearly every Western nation.⁵⁶ But in the late 1840s and 1850s those rates exploded across the United States and spiked even higher during the Civil War and Reconstruction, not only in the South and the Southwest, where rates had already risen in the early national period, but in the North. Rates that had ranged in the North in the 1830s and early 1840s from a low of 1 per 100,000 adults per year in northern New England to 6 per 100,000 in New York City, rose to between 2 and 33 per 100,000 in the northern countryside and to between 10 and 20 per 100,000 in northern cities. In the South, rates in the plantation counties of Georgia rose from 10 per 100,000 adults to 25 per 100,000, and rates soared even higher in rural Louisiana to 90 per 100,000 and in mountain communities in Georgia and Missouri from less than 5 per 100,000 adults per year to 60 per 100,000. And in the West, the rates

century. *See* An Act Against Carrying Concealed Weapons, No. 85, § 1 (12th Biennial Session, General Assembly of the State of Vermont, Nov. 19, 1892) (“A person who shall carry a dangerous or deadly weapon, openly or concealed, with the intent or avowed purpose of injuring a fellow man, shall, upon conviction thereof, be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding two years, or both, in the discretion of the court.”).

⁵⁶ Roth, *American Homicide*, 297-300.

reached 65 per 100,000 adults per year in California, 76 per 100,000 in Texas, 119 per 100,000 in mining towns in South Dakota, Nevada, and Montana, and 155 per 100,000 in cattle towns in Kansas. Americans, especially men, were more willing to kill friends, acquaintances, and strangers. And so, the United States became—and remains today—by far the most murderous affluent society in the world.⁵⁷

29. The increase occurred because America's heretofore largely successful effort at nation-building failed catastrophically at mid-century.⁵⁸ As the country struggled through the wrenching and divisive changes of the mid-nineteenth century—the crises over slavery and immigration, the decline in self-employment, and rise of industrialized cities—the patriotic faith in government that most Americans felt so strongly after the Revolution was undermined by anger and distrust.⁵⁹ Disillusioned by the course the nation was taking, people felt increasingly alienated from both their government and their neighbors.⁶⁰ They were losing the sense that they were participating in a great adventure with their

⁵⁷ *Ibid.*, 199, 297-300, 302, 337, 347; and Roth, Michael D. Maltz, and Douglas L. Eckberg, "Homicide Rates in the Old West," *Western Historical Quarterly* 42 (2011): 173-195 (https://www.jstor.org/stable/westhistquar.42.2.0173#metadata_info_tab_contents).

⁵⁸ *Ibid.*, 299-302, 384-385; and Roth, "American Homicide: Theory, Methods, Body Counts," *Historical Methods* 43 (2010): 185-192.

⁵⁹ Roth, *American Homicide*, 299-302, 384-385. See also Roth, "Measuring Feelings and Beliefs that May Facilitate (or Deter) Homicide."

⁶⁰ Roth, *American Homicide*, 300.

fellow Americans.⁶¹ Instead, they were competing in a cutthroat economy and a combative political system against millions of strangers whose interests and values were antithetical to their own.⁶² And most ominously, law and order broke down in the wake of the hostile military occupation of the Southwest, the political crisis of the 1850s, the Civil War, and Reconstruction.⁶³

30. The proportion of homicides committed with firearms increased as well from the Mexican War through Reconstruction, as it had during previous increases in nondomestic homicides during the Revolution, in the postrevolutionary South, and on contested frontiers.⁶⁴ Because the pistols, muskets, and rifles in use in the early years of the crisis of the mid-nineteenth century were still predominantly single-shot, muzzle-loading, black powder weapons, the proportion of homicides committed with guns stayed in the range of a third to two-fifths, except on the frontier.⁶⁵ Concealable fighting knives, together with concealable percussion-cap pistols, remained the primary murder weapons. But in time, new technologies added to the toll in lives, because of their lethality and the new ways in which they could be used.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid., 299-302, 332, 337, 354.

⁶⁴ Roth, "Why Guns Are and Aren't the Problem," 116-117.

⁶⁵ Roth, "American Homicide Supplemental Volume: Weapons," Figures 25 through 46, and 51 through 57.

31. Samuel Colt's cap-and-ball revolvers, invented in 1836, played a limited role in the early years of the homicide crisis, but they gained popularity quickly because of their association with frontiersmen, Indian fighters, Texas Rangers, and cavalrymen in the Mexican War.⁶⁶ They retained some of the limitations of earlier firearms, because their rotating cylinders—two of which came with each revolver—had to be loaded one chamber at a time. Users had to seat a percussion cap on a nipple at the rear of each chamber, pour powder into each chamber, secure the powder with wadding, and ram the bullet down the chamber with a rod or an attached loading lever. Thus cap-and-ball revolvers, like muzzle-loaders, could not be loaded quickly, nor could they be kept loaded indefinitely without risk of damaging the charge or the gun. But they were deadlier than their predecessors, because they made it possible for a person to fire five or six shots in rapid succession and to reload quickly with the second cylinder.⁶⁷

32. Smith and Wesson's seven-shot, .22 caliber, breech-loading, Model 1 rimfire revolver, invented in 1857, appeared on the market when the homicide

⁶⁶ Patricia Haag, *The Gunning of America: Business and the Making of American Gun Culture* (New York: Basic Books, 2016).

⁶⁷ Edward C. Ezell, *Handguns of the World: Military Revolvers and Self-Loaders from 1870 to 1945* (Harrisburg, Pennsylvania: Stackpole Books, 1981), 24-28; Julian S. Hatcher, *Pistols and Revolvers and Their Use* (Marshallton, Delaware: Small-Arms Technical Publishing Company, 1927), 8-11; and Charles T. Haven and Frank A. Belden, *A History of the Colt Revolver and the Other Arms Made by Colt's Patent Fire Arms Manufacturing Company from 1836 to 1940* (New York: Bonanza Books, 1940), 17-43.

crisis was already well underway. But it had none of the limitations of percussion-cap pistols or cap-and-ball revolvers. It could be loaded quickly and easily because it did not require powder, wadding, and shot for each round; and it could be kept loaded indefinitely because its corrosive powder was encapsulated in the bullet.⁶⁸ And it did not require a new percussion cap for each chamber, because the primer was located in a rim around the base of the bullet, set to ignite as soon as it was hit by the hammer.⁶⁹ As Smith and Wesson noted in its advertisements,

Some of the advantages of an arm constructed on this plan are:

The convenience and safety with which both the arm and ammunition may be carried;

The facility with which it may be charged, (it requiring no ramrod, powder-flask, or percussion caps);

Certainty of fire in damp weather;

That no injury is caused to the arm or ammunition by allowing it to remain charged any length of time.⁷⁰

33. Smith and Wesson had created a near-perfect murder weapon. It was lethal, reliable, easy to carry and conceal, capable of multiple shots, and ready to use at any time.⁷¹ Its only drawbacks were its small caliber and low muzzle velocity, which limited its ability to stop an armed or aggressive adversary on the

⁶⁸ Roy G. Jinks, *History of Smith and Wesson* (North Hollywood: Beinfeld, 1977), 38-57.

⁶⁹ *Ibid.*, 38-57.

⁷⁰ *Ibid.*, 39.

⁷¹ *Ibid.*, 38-57.

first shot, and the difficulty and danger of reloading. The reloading problem was remedied by Colt's development in 1889 of the first double-action commercial revolver with a swing-out cylinder and Smith and Wesson's addition in 1896 of an ejector to push out spent cartridges.⁷²

34. These new weapons were not the primary cause of the surge in violence that occurred in the United States from the Mexican War through Reconstruction. But they did contribute to the later stages of the crisis, as they superseded knives and black powder handguns as the primary weapons used in interpersonal assaults, not only because of their greater lethality, but because they were used in novel ways.⁷³ Easily concealed, they became the weapons of choice for men who stalked and ambushed estranged spouses or romantic partners, for suspects who killed sheriffs, constables, or police officers, and for self-styled toughs who engaged in shootouts in bars, streets, and even churchyards.⁷⁴ And as modern, breech-loading firearms replaced the muzzle-loading and cap-and-ball

⁷² Rick Sapp, *Standard Catalog of Colt Firearms* (Cincinnati: F+W Media, 2011), 96; Jeff Kinard, *Pistols: An Illustrated History of Their Impact* (Santa Barbara: ABC-CLIO, 2003), 163; and Jinks, *History of Smith and Wesson*, 104-170.

⁷³ Roth, "Why Guns Are and Aren't the Problem," 124-126 (recognizing that "Americans used the new firearms in ways they could never use muzzle-loading guns [. . .] The ownership of modern breech-loading [firearms] made the homicide rate worse in the United States than it would have been otherwise because it facilitated the use of *lethal* violence in a *wide variety of circumstances*.") (emphasis added).

⁷⁴ *Ibid.*, 124-125.

gunstock from the late 1850s through World War I, the proportion of homicides committed with firearms continued to climb even when homicide rates fell for a short time, as they did at the end of Reconstruction. By the eve of World War I, rates had fallen in the New England states to 1 to 4 per 100,000 adults per year, to 2 to 5 per 100,000 in the Prairie states, and 3 to 8 per 100,000 in the industrial states. In the West, rates had fallen to 12 per 100,000 adults per year in California, 15 per 100,000 in Colorado, and approximately 20 to 30 per 100,000 in Arizona, Nevada, and New Mexico. Homicide rates whipsawed, however, in the South. They fell in the late 1870s and 1880s, only to rise in the 1890s and early twentieth century, to just under 20 per 100,000 adults in Florida, Kentucky, Louisiana, Missouri, and Tennessee, and 35 per 100,000 in Virginia and North Carolina.⁷⁵ Ominously, too, firearms invaded families and intimate relationships, so relatives, spouses, and lovers were as likely to be killed with guns as unrelated adults—something that had never happened before in America’s history.⁷⁶ That is why the proportion of homicides committed with firearms—overwhelmingly, concealed revolvers—reached today’s levels by the 1920s, ranging from a median of 56

⁷⁵ *Ibid.*, 125-127, 388, 403-404; and Roth, “American Homicide Supplemental Volume: American Homicides in the Twentieth Century,” Figures 4a and 5a.

⁷⁶ *Ibid.*, 125.

percent in New England and over 70 percent in the South and West.⁷⁷ And that is why every state in the Union restricted the right to carrying certain concealable weapons.

35. It is important to note that state legislators experimented with various degrees of firearm regulation, as the nation became more and more violent. In Texas, where the homicide rate soared to at least 76 per 100,000 adults per year from June, 1865, to June, 1868,⁷⁸ the legislature passed a time-place-manner restriction bill in 1870 to prohibit the open or concealed carry of a wide range of weapons, including firearms, on social occasions;⁷⁹ and it followed in 1871 with a

⁷⁷ Roth, “American Homicide Supplemental Volume: Weapons,” Figures 2 through 7.

⁷⁸ Roth, Michael D. Maltz, and Douglas L. Eckberg, “Homicide Rates in the Old West,” *Western Historical Quarterly* 42 (2011): 192 (https://www.jstor.org/stable/westhistquar.42.2.0173#metadata_info_tab_contents).

⁷⁹ Brennan Gardner Rivas, “Enforcement of Public Carry Restrictions: Texas as a Case Study,” *UC Davis Law Review* 55 (2021): 2609-2610 (https://lawreview.law.ucdavis.edu/issues/55/5/articles/files/55-5_Rivas.pdf). “Be it enacted by the Legislature of the State of Texas, That if any person shall go into any church or religious assembly, any school room or other place where persons are assembled for educational, literary or scientific purposes, or into a ball room, social party or other social gathering composed of ladies and gentlemen, or to any election precinct on the day or days of any election, where any portion of the people of this State are collected to vote at any election, or to any other place where people may be assembled to muster or perform any other public duty, or any other public assembly, and shall have about his person a bowie-knife, dirk or butcher-knife, or fire-arms, whether known as a six-shooter, gun or pistol of any kind, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than fifty or more than five hundred dollars, at the discretion of the court or jury trying the same; provided,
(continued...)

bill banning in most circumstances the carrying, open or concealed, of small deadly weapons, including pistols, that were not designed for hunting or militia service.⁸⁰ These laws were enforced with little or no racial bias until the 1890s,

that nothing contained in this section shall apply to locations subject to Indian depredations; and provided further, that this act shall not apply to any person or persons whose duty it is to bear arms on such occasions in discharge of duties imposed by law.” An Act Regulating the Right to Keep and Bear Arms, 12th Leg., 1st Called Sess., ch. XLVI, § 1, 1870 Tex. Gen. Laws 63. See also Brennan Gardner Rivas, “The Deadly Weapon Laws of Texas: Regulating Guns, Knives, and Knuckles in the Lone Star State, 1836-1930” (Ph.D. dissertation: Texas Christian University, 2019) (<https://repository.tcu.edu/handle/116099117/26778>).

⁸⁰ Rivas, “Enforcement of Public Carry Restrictions,” 2610-2611. Rivas, quoting the law, says that “The first section stated, ‘That any person carrying on or about his person, saddle, or in his saddle bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie knife, or any other kind of knife manufactured or sold for the purposes of offense or defense, unless he has reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing; or unless having or carrying the same on or about his person for the lawful defense of the State, as a militiaman in actual service, or as a peace officer or policeman, shall be guilty of a misdemeanor, and, on conviction thereof shall, for the first offense, be punished by fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit to the county the weapon or weapons so found on or about his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not exceeding sixty days; and in every case of fine under this section the fines imposed and collected shall go into the treasury of the county in which they may have been imposed; provided that this section shall not be so construed as to prohibit any person from keeping or bearing arms on his or her own premises, or at his or her own place of business, nor to prohibit sheriffs or other revenue officers, and other civil officers, from keeping or bearing arms while engaged in the discharge of their official duties, nor to prohibit persons traveling in the State from keeping or carrying arms with their baggage; provided, further, that members of the Legislature shall not be included under the term “civil officers” as used in this act.’ An Act to Regulate the Keeping and Bearing of Deadly Weapons, 12th Leg. Reg. Sess., ch. XXXIV, § 1, 1871 Tex. Gen. Laws 25. The
(continued...)

when white supremacists disfranchised African Americans, legalized segregation, and took firm control of the courts and law enforcement.⁸¹

third section of the act reads, ‘If any person shall go into any church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this State are collected to vote at any election, or to any other place where people may be assembled to muster, or to perform any other public duty, (except as may be required or permitted by law,) or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured and sold for the purposes of offense and defense, unless an officer of the peace, he shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be punished by fine of not less than fifty, nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not more than ninety days.’ Id. § 3.” The law did not apply, however, ‘to a person’s home or business, and there were exemptions for “peace officers” as well as travelers; lawmakers and jurists spent considerable time fleshing out who qualified under these exemptions, and how to allow those fearing an imminent attack to carry these weapons in public spaces. Also, the deadly weapon law did not apply to all guns or firearms but just pistols. The time-place-manner restrictions, however, applied to any “fire-arms . . . gun or pistol of any kind” and later “pistol or other firearm,” as well as “any gun, pistol”’

See also Brennan Gardner Rivas, “The Deadly Weapon Laws of Texas: Regulating Guns, Knives, and Knuckles in the Lone Star State, 1836-1930 (Ph. D. dissertation: Texas Christian University, 2019), 72-83, 124-163 (<https://repository.tcu.edu/handle/116099117/26778>).

⁸¹ Rivas, “Enforcement of Public Carry Restrictions,” 2609-2620. The study draws on enforcement data from four Texas counties, 1870-1930: 3,256 total cases, of which 1,885 left a record of final adjudication. See also Rivas, “Deadly Weapon Laws of Texas,” 164-195.

36. Tennessee and Arkansas went farther than Texas to stem the tide of post-Civil War interpersonal violence. In 1871, Tennessee flatly prohibited the carrying of pocket pistols and revolvers, openly or concealed, except for the large army and navy pistols commonly carried by members of the military, which could be carried openly, but not concealed.⁸² Arkansas followed suit in 1881.⁸³ Tennessee’s law withstood a court challenge, and Arkansas’s was never challenged.⁸⁴ And both states moved to prevent the sale or transfer of pocket pistols or ordinary revolvers. In 1879, Tennessee prohibited “any person to sell, or offer to sell, or bring into the State for the purpose of selling, giving away, or

⁸² 1871 Tenn. Pub. Acts 81, An Act to Preserve the Peace and to Prevent Homicide, ch. 90, § 1; *State v. Wilburn*, 66 Tenn. 57, 61 (1872) (“It shall not be lawful for any person to publicly carry a dirk, sword cane, Spanish stiletto, belt or pocket pistol, or revolver, other than an army pistol, or such as are commonly carried and used in the United States army, and in no case shall it be lawful for any person to carry such army pistol publicly or privately about his person in any other manner than openly in his hands.”)

⁸³ 1881 Ark. Acts 191, An Act to Preserve the Public Peace and Prevent Crime, chap. XCVI, § 1-2 (“That any person who shall wear or carry, in any manner whatever, as a weapon, any dirk or bowie knife, or a sword, or a spear in a cane, brass or metal knucks, razor, or any pistol of any kind whatever, except such pistols as are used in the army or navy of the United States, shall be guilty of a misdemeanor. . . . Any person, excepting such officers or persons on a journey, and on his premises, as are mentioned in section one of this act, who shall wear or carry any such pistol as i[s] used in the army or navy of the United States, in any manner except uncovered, and in his hand, shall be guilty of a misdemeanor.”).

⁸⁴ See Brennan Gardner Rivas, “The Problem with Assumptions: Reassessing the Historical Gun Policies of Arkansas and Tennessee,” *Second Thoughts*, Duke Center for Firearms Law (Jan. 20, 2022), <https://firearmslaw.duke.edu/2022/01/the-problem-with-assumptions-reassessing-the-historical-gun-policies-of-arkansas-and-tennessee/>.

otherwise disposing of, belt or pocket pistols, or revolvers, or any other kind of pistol, except army or navy pistols.”⁸⁵ Arkansas passed a similar prohibition in 1881, but went even further by prohibiting the sale of pistol cartridges as well: “Any person who shall sell, barter, or exchange, or otherwise dispose of, or in any manner furnish to any person any dirk or bowie knife, or a sword or a spear in a cane, brass or metal knucks, or any pistol, of any kind of whatever, except as are used in the army or navy of the United States, and known as the navy pistol, or any kind of cartridge for any pistol, or any person who shall keep such arms or cartridges for sale, shall be guilty of a misdemeanor.”⁸⁶

37. California’s legislature, recognizing that the homicide rate had reached catastrophic levels (over 65 per 100,000 adults per year),⁸⁷ banned concealed weapons in 1863, because, as the editor of the *Daily Alta Californian* declared,

During the thirteen years that California has been a State, there have been more deaths occasioned by sudden assaults with weapons

⁸⁵ 1879 Tenn. Pub. Act 135-36, An Act to Prevent the Sale of Pistols, chap. 96, § 1; *State v. Burgoyne*, 75 Tenn. 173, 173-74 (1881).

⁸⁶ Acts of the General Assembly of Arkansas, No. 96 § 3 (1881).

⁸⁷ Roth, Maltz, and Eckberg, “Homicide Rates in the Old West,” 183. On violence in California and across the Far West, see Roth, Maltz, and Eckberg, “Homicide Rates in the Old West,” 173-195; Clare V. McKanna, Jr., *Homicide, Race, and Justice in the American West, 1880-1920* (Tucson: University of Arizona Press, 1997); McKanna, *Race and Homicide in Nineteenth-Century California* (Reno: University of Nevada Press, 2002); and John Mack Faragher, *Eternity Street: Violence and Justice in Frontier Los Angeles* (New York: W. W. Norton, 2016); and Roth, *American Homicide*, 354.

previously concealed about the person of the assailant or assailed, than by all other acts of violence which figure on the criminal calendar.... For many sessions prior to the last, ineffectual efforts were made to enact some statute which would effectually prohibit this practice of carrying concealed weapons. A radical change of public sentiment demanded it, but the desired law was not passed until the last Legislature, by a handsome majority.⁸⁸

38. But the legislature repealed the law in 1870, as public sentiment veered back toward the belief that the effort to make California less violent was hopeless, and that the only protection law-abiding citizens could hope for was to arm themselves. And the legislature once again had the enthusiastic support of the editor of the *Daily Alta Californian*, which then opined, “As the sovereignty resides in the people in America, they are to be permitted to keep firearms and other weapons and to carry them at their pleasure.”⁸⁹ A number of counties dissented, however, and made it a misdemeanor to carry a concealed weapon without a permit—ordinances that they enforced.⁹⁰ In 1917, the state made it a misdemeanor to carry a concealed weapon in incorporated cities and required that gun dealers register handgun sales and send the Dealer’s Record of Sale to local law enforcement.⁹¹ And in 1923, the state extended the licensing requirement to

⁸⁸ Clayton E. Cramer and Joseph Olson, “The Racist Origins of California’s Concealed Weapon Permit Law,” Social Science Research Network, posted August 12, 2016, 6-7 (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2599851).

⁸⁹ Cramer and Olson, “Racist Origins of California’s Concealed Weapon Permit Law,” 7-10.

⁹⁰ *Ibid.*, 11.

⁹¹ *Ibid.*, 11-13.

unincorporated areas and prohibited non-citizens from carrying concealed weapons.⁹²

39. Other states, like Ohio, tried to have it both ways. The Ohio legislature banned the carrying of concealable weapons in 1859, citing public safety. But it directed jurors, in the same law, to acquit persons who carried such weapons,

If it shall be proved to the jury, from the testimony on the trial of any case presented under the first section of this act, that the accused was, at the time of carrying any of the weapon or weapons aforesaid, engaged in the pursuit of any lawful business, calling, or employment, and that the circumstances in which he was placed at the time aforesaid were such as to justify a prudent man in carrying the weapon or weapons aforesaid for the defense of his person, property or family.⁹³

The burden of proof remained with the person who carried the concealed weapon.

40. It is important to remember, however, that even when states enacted different types of firearms restrictions, the fact remains that many jurisdictions enacted statutory restrictions at that time to ensure the safety of the public and law enforcement.

III. ADDRESSING THREATS TO THE REPUBLIC AND ITS CITIZENS FROM MASS MURDERERS FROM THE REVOLUTION INTO THE EARLY TWENTIETH CENTURY

⁹² Ibid., 13-15. Note that the title of the Cramer and Olson essay is misleading. It does not refer to the origins of the laws discussed here or to the ways in which they were enforced. It refers instead to an unsuccessful effort in 1878 and a successful effort in 1923 to deny resident aliens the right to bear arms.

⁹³ Joseph R. Swan, *The Revised Statutes of the State of Ohio, of a General Nature, in Force August 1, 1860* (Cincinnati: Robert Clarke & Co., 1860), 452.

41. The Republic faced threats not only from individual murderers, but from groups of murderers. Mass murder has been a fact of life in the United States since the mid-nineteenth century, when lethal and nonlethal violence of all kinds became more common. But mass murder was a group activity through the nineteenth century because of the limits of existing technologies.⁹⁴ The only way to kill a large number of people was to rally like-minded neighbors and go on a rampage with clubs, knives, nooses, pistols, shotguns, or rifles—weapons that were certainly lethal but did not provide individuals or small groups of people the means to inflict mass casualties on their own. Mass killings of this type were rare in the colonial, Revolutionary, and Early National eras, outside of massacres of Native Americans or irregular warfare among citizens seeking political power.⁹⁵ But from the 1830s into the early twentieth century, mass killings were common.

⁹⁴ On the history of mob violence, including riots and popular protests that led to mass casualties, see Paul A. Gilje, *Rioting in America* (Bloomington: Indiana University Press, 1996); and David Grimsted, *American Mobbing: Toward Civil War* (New York: Oxford University Press, 1996).

⁹⁵ For examples of massacres of unarmed Native Americans, see the murder in 1623 of six Massachusetts men by a party from Plymouth Colony, led by Captain Miles Standish [Roth, *American Homicide*, 42]; and the massacre in 1782 of 96 pacifist Moravian Delaware Indians at Gnadenhutzen in present-day Ohio [Rob Harper, “Looking the Other Way: The Gnadenhutzen Massacre and the Contextual Interpretation of Violence,” *William and Mary Quarterly* (2007) 64: 621-644 (https://www.jstor.org/stable/25096733#metadata_info_tab_contents)]. For examples of political conflict among colonists that led to mass killings, see the confrontation in 1655 at Severn River in Maryland between opposed factions in the English Civil War [Aubrey C. Land, *Colonial Maryland: A History* (Millwood, (continued...)]

42. Examples include Nat Turner's rebellion in Southampton County, Virginia, in 1831, which claimed sixty-nine lives; the murder of seventeen Mormons, perpetrated by militia men and vigilantes at Haun's Mill, Missouri in 1838; Bloody Monday in Louisville, Kentucky, where an assault by nativist Protestants on Irish and German Catholics in 1855 left twenty-two people dead; and the murder of nineteen Chinese Americans by a racist mob in Los Angeles in 1871. Because these mass killings were almost always spontaneous and loosely organized, they were difficult for government to prevent. Worse, in some incidents, such as the Haun's Mill Massacre, state and local governments were complicit; and in others, state and local governments turned a blind eye to the slaughter, as was the case in the murder of Chinese farm workers in Chico, California, in 1877.⁹⁶

New York: Kato Press, 1981), 49-54] and the slaughter in 1782 of rebel prisoners at Cloud's Creek, South Carolina, by Tory partisans under the leadership of William Cunningham [J. A. Chapman, *History of Edgefield County* (Newberry, South Carolina: Elbert H. Aull, 1897), 31-34]; see also Fox Butterfield, *All God's Children: The Bosket Family and the American Tradition of Violence* (New York: Vintage, 2008), 5-6.

⁹⁶ David F. Almendinger, Jr., *Nat Turner and the Rising in Southampton County* (Baltimore: Johns Hopkins Press, 2014); Patrick H. Breen, *The Land Shall Be Deluged in Blood: A New History of the Nat Turner Revolt* (New York: Oxford University Press, 2015); Stephen B. Oates, *The Fires of Jubilee: Nat Turner's Fierce Rebellion* (New York: Harper and Row, 1975); Stephen C. LeSueur, *The 1838 Mormon War in Missouri* (Columbia: University of Missouri Press, 1987), 162-168; Brandon G. Kinney, *The Mormon War: Zion and the Missouri Extermination Order of 1838* (Yardley, Pennsylvania: Westholme, 2011); Mary
(continued...)

43. The Federal government did act during Reconstruction, however, to prevent mass murder when formally organized white supremacist organizations engaged in systematic efforts to deprive African Americans of their civil rights, which had been guaranteed by the Thirteenth, Fourteenth, and Fifteenth Amendments. The Ku Klux Klan Acts of 1870 and 1871, meant to prevent assassinations and mass shootings and lynchings by white supremacist terrorists, were effective when enforced by the federal government and the U.S. Army.⁹⁷ But when federal troops were withdrawn, white supremacist mass killings resumed. In New Orleans, for example, an ultimately successful effort by white-supremacist Democrats to seize control of the city's government by violent means left dozens of Republican officials and police officers shot dead and scores wounded.⁹⁸ And the Klan Acts did nothing to prevent mass murders by spontaneous mobs and

Alice Mairose, "Nativism on the Ohio: the Know Nothings in Cincinnati and Louisville, 1853-1855" (M.A. thesis, Ohio State University, 1993); W. Eugene Hollon, *Frontier Violence: Another Look* (New York: Oxford University Press, 1974), 93-95; Faragher, *Eternity Street*, 463-480; and Sucheng Chan, *The Bitter-Sweet Soil: The Chinese in California Agriculture, 1860-1910* (Berkeley: University of California Press, 1986), 372.

⁹⁷ Alan Trelease, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (New York: Harper and Row, 1975).

⁹⁸ Dennis C. Rousey, *Policing the Southern City: New Orleans, 1805-1889* (Baton Rouge: Louisiana State University Press, 1996), 151-158. See also LeeAnna Keith, *The Colfax Massacre: The Untold Story of Black Power, White Terror, and the Death of Reconstruction* (New York: Oxford University Press, 2008); and Gilles Vandal, *Rethinking Southern Violence: Homicides in Post-Civil War Louisiana, 1866-1884* (Columbus: Ohio State University Press, 2000), 67-109.

loosely organized vigilantes. Rioters and vigilantes remained a threat well into the twentieth century. In 1921 more than three hundred African American citizens were murdered in the Tulsa Race Massacre in Oklahoma.⁹⁹

IV. ADDRESSING THREATS TO THE REPUBLIC AND ITS CITIZENS FROM MASS MURDERERS FROM THE EARLY TWENTIETH CENTURY TO THE PRESENT

44. The character of mass murder began to change in the late nineteenth and early twentieth century with the invention and commercial availability of new technologies that gave individuals or small groups of people the power to kill large numbers of people in a short amount of time. These technologies proved useful to criminal gangs, anarchists, and factions of the labor movement intent on killing adversaries, public officials, and law enforcement officers. The technologies that were most widely used by criminals and terrorists were dynamite, invented by Alfred Nobel in 1866, and the Thompson submachine gun, invented in 1918 by General John T. Thompson, who improved upon a pioneering German design.

45. The advantage of dynamite over nitroglycerin and other explosives used in mining and construction was its power and its stability, which made

⁹⁹ On the deadly race riots of 1919-1921, see William M. Tuttle, Jr., *Race Riot: Chicago in the Red Summer of 1919* (New York: Atheneum, 1970); Scott Ellsworth, *Death in a Promised Land: The Tulsa Race Riot of 1921* (Baton Rouge: Louisiana State University Press, 1982); and Tim Madigan, *The Burning: Massacre, Destruction, and the Tulsa Race Riot of 1921* (New York: Thomas Dunne Books / St. Martin's Press, 2001).

accidental explosions rare. The advantages of submachine guns over existing machine guns as weapons of war were that they were light enough to be carried and operated by a single individual, and they were capable of firing .45 caliber bullets from 20-round clips or 50- or 100-round drum magazines at a rate of 600 to 725 rounds per minute.¹⁰⁰

46. Criminals and terrorists quickly discovered how accessible and useful these new technologies were. They could be purchased legally by private citizens. In the 1920s, Thompson submachine guns were expensive. They sold for \$175 to \$225 each, at a time when a new Ford cost \$440 (the rough equivalent of \$2996 to \$3852 today, while now a base model of the AR-15 semiautomatic rifle can be purchased for less than \$400 and a 30-round magazine for as little as \$10).¹⁰¹ That is why Thompsons were favored by those with resources: law enforcement, the Irish Republican Army, Sandinista rebels in Nicaragua, and bank robbers.

¹⁰⁰ Herta E. Pauli, *Alfred Nobel: Dynamite King, Architect of Peace* (New York: L. B. Fisher, 1942); and Bill Yenne, *Tommy Gun: How General Thompson's Submachine Gun Wrote History* (New York: Thomas Dunne Books, 2009).

¹⁰¹ Yenne, *Tommy Gun*, 86. Estimates vary on the purchasing power of 1919 dollars in today's dollars, but \$1.00 in 1919 was worth roughly \$17.12 today. See the CPI Inflation Calculator (<https://bit.ly/3CS5UNI>), accessed October 4, 2022. The prices of AR-15 style rifles today are from guns.com (<https://www.guns.com/firearms/ar-15-rifles?priceRange=%24250%20-%20%24499>), accessed October 4, 2022. The prices of 30-round magazines of .233 caliber ammunition are from gunmagwarehouse.com (<https://gunmagwarehouse.com/all-magazines/rifles/magazines/ar-15-magazines>), accessed October 4, 2022.

Dynamite, however, cost only 18 cents a pound (the rough equivalent of \$3.08 today), so it was favored by labor activists and anarchists.¹⁰² Federal, state, and local officials and law enforcement officers suddenly confronted novel threats to their personal safety. Submachine guns were used most notoriously in gangland slayings in Chicago during the Prohibition Era, such as the St. Valentine's Day Massacre and the Kansas City Massacre.¹⁰³ Dynamite was used in a string of anarchist bombings in 1919-1920. Those included the murder of 38 people and the wounding of 143 in an attack on Wall Street, 36 dynamite bombs mailed to justice officials, newspaper editors, and businessmen (including John D. Rockefeller), and a failed attempt to kill Attorney General A. Mitchell Palmer and his family.¹⁰⁴

¹⁰² Department of Commerce, Bureau of the Census, *Fourteenth Census of the United States Manufactures: Explosives* (Washington, D.C.: Government Printing Office, 1922), 6. Note that a pound of dynamite would be far more expensive today—potentially hundreds of thousands of dollars—because it would require the purchase of a blasting license, a storage bunker, and an isolated plot of land for the storage bunker. See U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Enforcement Programs and Services, *ATF Federal Explosives Law and Regulations, 2012* (<https://www.atf.gov/explosives/docs/report/publication-federal-explosives-laws-and-regulations-atf-p-54007/download>), accessed October 4, 2022.

¹⁰³ William Helmer and Arthur J. Bilek, *The St. Valentine's Day Massacre: The Untold Story of the Bloodbath That Brought Down Al Capone* (Nashville: Cumberland House, 2004); and Yenne, *Tommy Gun*, 74-78, 91-93.

¹⁰⁴ Paul Avrich, *Sacco and Vanzetti: The Anarchist Background* (Princeton: Princeton University Press, 1991), 140-156, 181-195; Beverly Gage, *The Day Wall Street Exploded: A Story of America in Its First Age of Terror* (New York: Oxford University Press, 2009); David Rapoport, *Waves of Global Terrorism: From 1879 to the Present* (New York: Columbia University Press, 2022), 65-110. Consider
(continued...)

Dynamite was also used effectively for malicious, private ends. For example, Osage Indians were murdered by an individual in Oklahoma in an attempt to gain their headrights and profit from insurance policies on them.¹⁰⁵

47. Because of the threats these new technologies posed for public safety, public officials widened their regulatory focus beyond concealed and concealable weapons. Thirteen states restricted the capacity of ammunition magazines for semiautomatic and automatic firearms between 1927 and 1934,¹⁰⁶ and Congress passed the National Firearms Acts of 1934 and 1938, which restricted ownership of machine guns and submachine guns (known today as automatic weapons) because of their ability to fire rapidly from large-capacity magazines.¹⁰⁷ And the Organized Crime Control Act of 1970 restricted ownership of a wide range of explosives,

also the bombing of the office of the *Los Angeles Times* in 1910 by two union activists, which killed 21 persons and injured 100 more, in Louis Adamic, *Dynamite: The Story of Class Violence in America* (New York: Viking, 1931).

¹⁰⁵ For this and other murders of Osage people see David Grann, *Killers of the Flower Moon: The Osage Murders and the Birth of the FBI* (New York, Doubleday, 2017).

¹⁰⁶ Robert J. Spitzer, “Gun Accessories and the Second Amendment: Assault Weapons, Magazines, and Silencers,” *Law and Contemporary Problems* 83 (2020): 238 (<https://scholarship.law.duke.edu/lcp/vol83/iss3/13>). In the same period, five additional states restricted magazine capacity for fully automatic weapons, but not semiautomatic weapons.

¹⁰⁷ The National Firearms Act of 1934, 48 Statute 1236 (https://homicide.northwestern.edu/docs_fk/homicide/laws/national_firearms_act_of_1934.pdf); and the National Firearms Act of 1938, 52 Statute 1250 (https://homicide.northwestern.edu/docs_fk/homicide/laws/national_firearms_act_of_1938.pdf).

building upon regulations that began in 1917 with the passage of the Federal Explosives Act, which restricted the distribution, storage, possession, and use of explosive materials during the time of war.¹⁰⁸

48. Since 1970, public officials have continued to reserve the right to regulate the sale, ownership, and control of new technologies that can be used by individuals or small groups to commit mass murder. The Homeland Security Act of 2002 improved security at airports and in cockpits to ensure that airplanes could not be used by terrorists to commit mass murder. The Secure Handling of Ammonium Nitrate Act of 2007 restricted access to large quantities of fertilizer to prevent terrorist attacks like the one that killed 165 people in Oklahoma City in 1995.¹⁰⁹ And in the wake of the massacre of 58 people and wounding of hundreds of others at a concert in Las Vegas in 2017, the Trump administration issued a regulation that banned the sale or possession of bump stocks. It gave owners 90

¹⁰⁸ The Organized Crime Control Act of 1970, 84 Statute 922; and the Federal Explosives Act of 1917, 40 Statute 385.

¹⁰⁹ Public Law 107-296, November 25, 2002, “To Establish the Department of Homeland Security” (https://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf); and 6 U.S. Code § 488a - Regulation of the sale and transfer of ammonium nitrate (<https://www.law.cornell.edu/uscode/text/6/chapter-1/subchapter-VIII/part-J>). The ammonium nitrate regulations were to be enforced no later than 90 days after December 26, 2007. Accessed August 31, 2022.

days to destroy their bump stocks or turn them in to the Bureau of Alcohol, Tobacco, Firearms, and Explosives.¹¹⁰

49. In recent decades, criminal organizations, terrorists, and lone gunmen with an intent to commit mass murder have also discovered the effectiveness of rapid-fire semiautomatic weapons with large capacity magazines. These weapons, which were designed for offensive military applications rather than individual self-defense, emerged from technologies developed for military use during the Cold War, beginning with the Soviet AK-47 assault rifle, which was invented in 1947, adopted by the Soviet Army in 1949, and used in the 1950s by the Soviets or their allies during the Hungarian Revolution, the Vietnam War, and the Laotian Civil War.¹¹¹ The signature military firearm of that era—the M-16 rifle with a 30-round magazine and a muzzle velocity of over 3,000 feet per second¹¹²—was capable of firing 750 to 900 rounds per minute when set on fully automatic.¹¹³ But the M-16 was used more often in combat—and more accurately, effectively, and sustainably

¹¹⁰ *New York Times*, December 18, 2018 (<https://www.nytimes.com/2018/12/18/us/politics/trump-bump-stocks-ban.html>), accessed October 4, 2022.

¹¹¹ Edward and Ezell, *The AK-47 Story: Evolution of the Kalashnikov Weapons* (Harrisburg, Pennsylvania: Stackpole Books, 1986).

¹¹² Muzzle velocity is the speed at which a round exits the barrel of a firearm.

¹¹³ Edward Ezell, *The Great Rifle Controversy: Search for the Ultimate Infantry Weapon from World War II through Vietnam and Beyond* (Harrisburg, Pennsylvania: Stackpole Books, 1984).

as a weapon for inflicting mass casualties—when set on semiautomatic, which was standard military procedure. That is why the U.S. Army defines “rapid fire” as 45 rounds per minute (the rate of fire of an M-16 when set on semiautomatic), not 750 to 900.¹¹⁴ And that is why in 1998 the U.S. Marine Corps adopted the M-16A4, which replaced the “fully automatic” switch with a three-round burst (but otherwise the same weapon as the M-16)—an alteration that slows the potential rate of fire, conserves ammunition, and improves accuracy.¹¹⁵ The civilian version of the M-16—the ArmaLite AR-15—has approximately the same muzzle velocity as the M-16 (3,300 feet per second) and the same rate of fire as the M-16 on semiautomatic: 45 rounds per minute.¹¹⁶

50. It did not take criminals, terrorists, and lone gunmen long to adopt the rapid-fire semiautomatic handguns and rifles with large capacity magazines that arrived on the domestic market in the 1970s and 1980s. These firearms can inflict mass casualties in a matter of seconds and maintain parity with law enforcement in a standoff, which is why many police and sheriff departments across the United

¹¹⁴ Sections 8-17 through 8-22 (Rates of Fire), Sections 8-23 and 8-24 (Follow Through), and Sections B-16 through B22 (Soft Tissue Penetration), in *TC 3-22.9 Rifle and Carbine Manual*, Headquarters, Department of the Army (May 2016). Available at the Army Publishing Directorate Site (https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN19927_TC_3-22x9_C3_FINAL_WEB.pdf), accessed October 4, 2022.

¹¹⁵ See [military-today.com \(http://www.military-today.com/firearms/m16.htm\)](http://www.military-today.com/firearms/m16.htm), accessed October 4, 2022.

¹¹⁶ Ezell, *The Great Rifle Controversy, 177-192*.

States have purchased semiautomatic rifles and armored vehicles to defend themselves and decrease the likelihood that officers are killed or wounded.¹¹⁷

51. Manufacturers soon discovered ways to increase the rate of fire of these new semiautomatic weapons even further. Some innovations, such as bump stocks and modification kits, allowed owners to transform semiautomatic rifles into fully automatic rifles. And in response to the Trump administration’s regulatory ban on the production and sale of bump stocks and modification kits, the firearms industry has developed “binary” triggers that fire when pulled *and when released*—a modification that doubles the rate at which semiautomatic weapons can be fired.¹¹⁸

¹¹⁷ Sam Bieler, “Police Militarization in the USA: The State of the Field,” *Policing: An International Journal* 39 (2016): 586-600, available at https://www.emerald.com/insight/content/doi/10.1108/PIJPSM-03-2016-0042/full/pdf?casa_token=TYUuIouUCc8AAAAA:IWXQRQOtW90KZ2AKwzHNMX2tfRix0zAxRRkjQSy3rA-uUpnylZrnp0Xolhj7UFIf05WGZkr_92L_QGk_OAxnSH-3h26oxKC4e7vM79VCBpFl9_cHg.

¹¹⁸ Bureau of Alcohol, Tobacco, Firearms, and Explosives, Office of Enforcement Programs and Services, Office of Field Operations, “Open Letter to All Federal Firearms Licensees,” March 22, 2022 (<https://www.atf.gov/firearms/docs/open-letter/all-fpls-mar-2022-open-letter-forced-reset-triggers-frts/download>), accessed October 4, 2022. The ATF has not banned the production, sale, or ownership of binary triggers, but the several states have done so, citing the threat they pose to the safety of the public and law enforcement. Those states include North Dakota, Hawaii, Connecticut, New Jersey, Maryland, Washington, California, D.C., Iowa, New York, Rhode Island, and Florida. (<https://lundestudio.com/are-binary-triggers-legal/>), accessed October 4, 2022. See also americanfirearms.org, “A Complete Guide to Binary Triggers,” (continued...)

52. Just as dangerous, however, were modifications that helped users fire more rapidly with semiautomatic firearms. The modifications included “fixes” as simple as stretching a rubber band from the trigger to the trigger guard of an AR-15—the civilian version of the M-16, which differs from the military model only in its lack of a switch for fully automatic. The band pushes the trigger forward more rapidly after each round and enables users to fire rapid semiautomatic bursts with help of the weapon’s natural recoil. The rubber band method works because manufacturers have increased the fire rate of semiautomatic weapons by decreasing the pressure it takes to pull the trigger.¹¹⁹

53. The threat to public safety and law enforcement posed by semiautomatic weapons—with or without dangerous modifications—is a modern phenomenon that has a direct correlation with mass murder and mass shootings. The danger these firearms pose is intrinsically different from past weaponry. In the same way that the Colt cap-and-ball revolvers and breech-loaded firearms resulted in increased deaths by firearms, the development of semiautomatic rifles and handguns dramatically increased the number killed or wounded in mass

(<https://www.americanfirearms.org/guide-to-binary-triggers/>), accessed October 4, 2022.

¹¹⁹ See “Rapid Manual Trigger Manipulation (Rubber Band Assisted),” YouTube (https://www.youtube.com/watch?v=PvfwFP_RwTQ), accessed October 4, 2022.

shootings from 1966 to the present.¹²⁰ What is remarkable about the mass shootings that have plagued the United States since 1965 is that all but four involved a lone shooter, and those that have involved more than one assailant have involved only two: in 1998 in Jonesboro, Kentucky; in 1999 in Littleton, Colorado; in 2015 in San Bernardino, California; and in 2019 in Jersey City, New Jersey. In the nineteenth and early twentieth centuries, it required scores of individuals to gather together as mobs, rioters, vigilantes, or terrorists to kill or wound dozens of people in a short space of time—generally because of their race, ethnicity, or faith.

54. Today, thanks especially to extended magazines and certain classes of semiautomatic firearms, it requires only one or two individuals to kill or wound that many people. And because of these modern technologies, which were developed for warfare, angry, alienated individuals can commit mass murder for reasons that are simply personal. Mass murderers no longer require collaborators to rally to a cause. For example, they can kill large numbers of people simply

¹²⁰ The Violence Project (<https://www.theviolenceproject.org/mass-shooter-database/>), accessed October 4, 2022. The Violence Project, which has compiled data on mass shootings from 1966 through 2021, defines a mass shooting as “a multiple homicide incident in which four or more victims are murdered with firearms—not including the offender(s)—within one event, and at least some of the murders occurred in a public location or locations in close geographical proximity (e.g., a workplace, school, restaurant, or other public settings), and the murders are not attributable to any other underlying criminal activity or commonplace circumstance (armed robbery, criminal competition, insurance fraud, argument, or romantic triangle).”

because they feel slighted at school, because they don't get along with their coworkers, because they were rejected romantically, or because they simply want to make a name for themselves. And since it is impossible in our society—indeed, in any society—to ensure that no one is angry or alienated, restricting access to extended magazines and certain classes of semiautomatic firearms mitigates the risk to every American.

55. For these reasons, local governments have enacted bans on the sale of semiautomatic weapons with features that enhance their military utility, as the federal government did from 1994 to 2004. And local governments have banned the sale of large capacity magazines, because they allow mass murderers to prolong their attacks before citizens or law enforcement can intervene—usually when the shooter is reloading. For example, the shooter who wounded U.S. House Representative Gabby Giffords in Tucson, Arizona, in 2011 was able to fire 31 rounds with a Glock 19 semiautomatic handgun in a matter of seconds before bystanders could disarm him as he changed magazines. Every one of those rounds hit an individual, killing six and injuring twelve.¹²¹

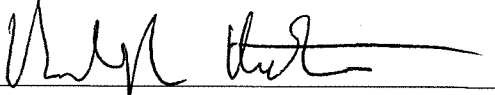
¹²¹ “2011 Tucson Shooting,” Wikipedia (https://en.wikipedia.org/wiki/2011_Tucson_shooting), accessed September 2, 2022.

V. CONCLUSION

56. From the Founding Generation to the present, the people of the United States and their elected representatives have recognized that there are instances in which the security of the republic and the safety of its citizens require government-imposed restrictions. That is why the majority of states passed and enforced laws against the carrying of concealable weapons, why the federal government passed the Ku Klux Klan Acts during Reconstruction, and why states, municipalities, and the federal government have passed and enforced laws since World War I to restrict ownership or control of modern technologies that enable criminals, terrorists, and malicious or delusional individuals to commit mass murder. Public officials are not required to pass such laws, of course, but historically, they have always retained the ability to do so. There is no evidence in the historical record to suggest that they took their decisions lightly when they imposed these restrictions on weapons and armed voluntary organizations. And mass murders by individuals, including mass shootings, are a recent phenomenon, caused by changes in technology that emerged in the late nineteenth through the late twentieth century. Public officials today are confronting a criminological problem that did not exist in the Founding Era, nor during the first century of the nation's existence.

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

DATED: Columbus, Ohio, February 8, 2023.



RANDOLPH ROTH

Randolph Roth

Page 1

Curriculum Vitae

RANDOLPH ROTH

Department of History
The Ohio State University
Columbus, OH 43210-1367
(614) 292-6843
FAX: 614-292-2822
E-mail: roth.5@osu.edu

6987 Grandee Cliffs Drive
Dublin, OH 43016

(614) 889-5043

Table of Contents

Personal	2
Education	2
Academic Positions	2
Honorary Positions	2
Professional Honors and Awards for Scholarship	2
Professional Honors and Awards for Teaching	3
Grants	3
Bibliography and Research	4-17
Teaching	18-20
Service	21-26

EXHIBIT A (Roth)

Randolph Roth

Page 2

Personal

Marital Status:	Married	Allison Sweeney
Children:	Alexander	

Education

1981, Ph.D. in History, Yale University (thesis, "Whence This Strange Fire? Religious and Reform Movements in Vermont, 1791-1843," David Brion Davis and Howard R. Lamar, advisors)

1973, B.A., with honors and distinction, in History, Stanford University (thesis, "Progressive Reform and Socialism in Berkeley, California, 1877-1924," Carl Degler and Barton Bernstein, advisors)

Academic Positions

1985-present, The Ohio State University: College of Arts and Sciences
Distinguished Professor of History and Sociology
1978-1985, Grinnell College: Assistant Professor of History
1978, University of Vermont: Instructor in History
1974-1977, Graduate Teaching Assistant, Yale University

Honorary Positions

2012, Wayne N. Aspinall Visiting Chair Professor, University of Colorado Mesa

Professional Honors and Awards for Scholarship

2022, Distinguished Scholar Award, Division of Historical Criminology, American Society of Criminology

2013-2016, Member, Roundtable on Crime Trends in America, National Research Council, National Academy of Sciences

2012, Fellow, American Association for the Advancement of Science

2011, Michael J. Hindelang Award, American Society of Criminology, for the outstanding contribution to criminology over the previous three years

2010, Allan Sharlin Memorial Award, Social Science History Association,

Randolph Roth

Page 3

for an outstanding book in social science history

2010, Outstanding Academic Books, *Choice*

1988, E. Harold Hugo Memorial Book Prize, Old Sturbridge Village Research Society, for distinguished work in the history of rural society

1982, Theron Rockwell Field Prize, Yale University, for the outstanding dissertation in the Humanities

1982, George Washington Eggleston Prize, Yale University, for the outstanding dissertation in American history

1973, James Birdsall Weter Prize, Stanford University, for the outstanding senior thesis in history

Professional Honors and Awards for Teaching

2017, Rodica C. Botoman Award for Distinguished Undergraduate Teaching and Mentoring, College of Arts and Humanities

2013, Outstanding Teaching Award, College of Arts and Sciences Student Council

2009, Ohio State University Alumni Award for Distinguished Teaching

2007, Distinguished Teaching Award, Ohio Academy of History

1995, Clio Award, Phi Alpha Theta Honor Society, for Distinguished Teaching in History at Ohio State University

Grants

2013-2014, Research Grant, Harry Frank Guggenheim Foundation

2012-2015, Research Grant, National Science Foundation (SES-1228406)

2000, Fellowship for University Teachers, National Endowment for the Humanities

1998-2000, Research Grant and Supplemental Research Grant, National Science Foundation (SBR-9808050)

Randolph Roth

Page 4

1992, Fellow, Workshop on the Rhetoric of Social History, University of Iowa

1989-1990, Research Fellowship, Harry Frank Guggenheim Foundation

1987, National Endowment for the Humanities, Summer Stipend

1983, Research Fellowship for Recent Recipients of the Ph.D., American Council of Learned Societies

1981, Fred Harris Daniels Fellowship, American Antiquarian Society

Bibliography and Research

Books

American Homicide (an interregional study of violent crime and violent death in America from colonial times to the present). The Belknap Press of Harvard University Press (2009), 655 pp.

The Democratic Dilemma: Religion, Reform, and the Social Order in the Connecticut River Valley of Vermont, 1791-1850. Cambridge University Press (1987), 399 pp.

Edited Volumes

Co-founder and co-director, Historical Violence Database (on-line database on violent crime, violent death, and collective violence). Web address: www.sociology.ohio-state.edu/cjrc/hvd

American Homicide Supplementary Volume (on-line supplement to *American Homicide*, including detailed appendices on methods, supplemental tables, graphs, and statistical analyses), approx. 750 pp. Web address: <http://cjrc.osu.edu/researchprojects/hvd/AHsup.html>

Essays on Historical Subjects

“Homicide and the Opioid Epidemic: A Longitudinal Analysis,” co-authored with Richard Rosenfeld and Joel Wallman. *Homicide Studies* (forthcoming).

Randolph Roth

Page 5

“The Opioid Epidemic and Homicide in the United States,” co-authored with Richard Rosenfeld and Joel Wallman. *Journal of Research in Crime and Delinquency* 58: 1 (2021): 1-46.

“Homicide-Suicide by Women against Intimate Partners,” co-authored with Wendy C. Regoeczi, in Todd Shackelford, ed., *Sage Handbook of Domestic Violence* (Newbury Park: Sage Publications, 2020), v 1, 318-329.

“Why Guns Are and Aren’t the Problem: The Relationship between Guns and Homicide in American History,” in Jennifer Tucker, Barton C. Hacker, and Margaret Vining, eds., *A Right to Bear Arms? The Contested Role of History in Contemporary Debates on the Second Amendment* (Washington, D.C.: Smithsonian Institution Scholarly Press, 2019), 113-133.

“Does Better Angels of Our Nature Hold Up as History?” *Historical Reflections* 44: 1 (2018): 91-103.

“Criminologists and Historians of Crime: A Partnership Well Worth Pursuing.” *Crime, History, and Societies* 21: 2 (2017): 387-399.

“How Exceptional Is the History of Violence and Criminal Justice in the United States? Variation across Time and Space as the Keys to Understanding Homicide and Punitiveness,” in Kevin Reitz, ed. *American Exceptionalism in Crime and Punishment* (Oxford University Press, 2017).

"Getting Things Wrong Really Does Help, as Long as You Keep Trying to Get Things Right: Developing Theories About Why Homicide Rates Rise and Fall" in Michael D. Maltz and Stephen Rice, eds., *Envisioning Criminology: Researchers on Research as a Process of Discovery* (Springer Verlag, 2015), 143-150.

“Roundtable on History Meets Biology: Introduction,” *American Historical Review* (2014) 119: 1492-1499. Principal author and organizer of the Roundtable.

“Emotions, Facultative Adaptation, and the History of Homicide,” *American Historical Review* (2014) 119: 1529-1546.

“Gender, Sex, and Intimate-Partner Violence in Historical Perspective,” in Rosemary Gartner and William McCarthy, eds., *Oxford Handbook on Gender, Sex, and Crime* (Oxford University Press, 2014), 175-190.

“The Importance of Testing Criminological Theories in Historical Context: The Civilization Thesis versus the Nation-Building Hypothesis,” *Criminology* online: Presidential Session Papers from the American Society of Criminology (2014)

“Making Sense of Violence? Reflections on the History of Interpersonal Violence

Randolph Roth

Page 6

in Europe,” *Crime, History, and Societies* (2013) 17: 5-26. Richard McMahon, Joachim Eibach, and Randolph Roth. Introduction to a special issue solicited by the Board of Editors of *Crime, History, and Societies*, co-edited with Joachim Eibach, University of Berne, and Richard McMahon, University of Liverpool.

“Scientific History and Experimental History,” *Journal of Interdisciplinary History* (2013) 43: 443-458.

“Measuring Feelings and Beliefs that May Facilitate (or Deter) Homicide,” *Homicide Studies* (2012) 16: 196-217.

“Yes We Can: Working Together toward a History of Homicide That Is Empirically, Mathematically, and Theoretically Sound,” *Crime, History, and Societies* (2011) 15: 131-145.

“Biology and the Deep History of Homicide,” *British Journal of Criminology* (2011) 51: 535-555.

“Homicide Rates in the Old West.” *Western Historical Quarterly*. Randolph Roth, Michael D. Maltz, and Douglas L. Eckberg (2011) 42: 173-195.

“American Homicide: Theory, Methods, Body Counts.” *Historical Methods* (2010) 43: 185-192.

“The Historical Violence Database: A Collaborative Research Project on the History of Violent Crime and Violent Death.” *Historical Methods*. Randolph Roth, Cornelia Hughes Dayton, Kenneth Wheeler, James Watkinson, Robb Haberman, James M. Denham, and Douglas L. Eckberg (2008) 41: 81-98.

“Homicide in Florida, 1821-1861: A Quantitative Analysis.” *Florida Historical Quarterly*. Randolph Roth and James M. Denham (2007) 86: 216-239.

“Guns, Murder, and Probability: How Can We Decide Which Figures to Trust?” *Reviews in American History* (2007) 35: 165-75.

“Twin Evils? Slavery and Homicide in Early America,” in Steven Mintz and John Stauffer, eds., *The Problem of Evil: Slavery, Freedom, and the Ambiguities of American Reform*. Amherst: University of Massachusetts Press (2007), 74-88.

"Rural Communities," in Feintuch, Burt and David H. Watters, eds., *Encyclopedia of New England*. Yale University Press (2005), 53-55.

“Counting Guns: What Social Science Historians Know and Could Learn about Gun Ownership, Gun Culture, and Gun Violence in the United States,” *Social Science History* (2002) 26: 699-708.

"Guns, Gun Culture, and Homicide: The Relationship between Firearms, the Uses of Firearms, and Interpersonal Violence in Early America," *William and Mary Quarterly* (2002) 59: 223-240.

"Homicide in Early Modern England, 1549-1800: The Need for a Quantitative Synthesis." *Crime, History, and Societies* (2001) 5: 33-67.

"Child Murder in New England," *Social Science History* (2001) 25: 101-147.

"Spousal Murder in Northern New England, 1791-1865," in Christine Daniels, ed., *Over the Threshold: Intimate Violence in Early America, 1640-1865*. Routledge Press (1999), 65-93.

"'Blood Calls for Vengeance!': The History of Capital Punishment in Vermont," in Michael Sherman, ed., *Vermont State Government*. Vermont Secretary of State and Vermont Historical Society (1997), 10-25.

"The Generation Conflict Reconsidered," in *American Vistas*, ed. Leonard Dinnerstein & Kenneth T. Jackson. Oxford University Press (7th ed. 1995), 116-127.

"The Other Masonic Outrage: The Death and Transfiguration of Joseph Burnham," *Journal of the Early Republic* (1994) 14: 35-69.

"The First Radical Abolitionists: The Reverend James Milligan and the Reformed Presbyterians of Vermont," *New England Quarterly* (1982) 55: 540-563.

Essays on Methods and Theory

"'To Err Is Human': Uniformly Reporting Medical Errors and Near Misses, a Naïve, Costly, and Misdirected Goal." *Journal of the American College of Surgeons*. Charles H. Andrus, Eduardo G. Villasenor, John B. Kettelle, Randolph Roth, Allison M. Sweeney, and Nathaniel M. Matolo (2003) 196: 911-918.

"Is There a Democratic Alternative to Republicanism? The Rhetoric and Politics of Synthesis in American History," in Jeffrey Cox and Sheldon Stromquist, eds., *Contesting the Master Narrative: Essays in Social History*. University of Iowa Press (1998), 210-256.

"Did Class Matter in American Politics? The Importance of Exploratory Data Analysis," *Historical Methods* (1998) 31: 5-25.

"Is History a Process? Revitalization Theory, Nonlinearity, and the Central

Randolph Roth

Page 8

Metaphor of Social Science History," *Social Science History* (1992) 16: 197-243.

"Ecological Regression and the Analysis of Voter Behavior," *Historical Methods* (1986) 19: 103-117.

Public History Essays

"Can Faith Change the World? Religion and Society in Vermont's Age of Reform," *Vermont History* (2001) 69: 7-18.

"Wayward Youths: Raising Adolescents in Vermont, 1777-1815," *Vermont History* (1991) 59: 85-96.

"Why Are We Still Vermonters? Vermont's Identity Crisis and the Founding of the Vermont Historical Society," *Vermont History* (1991) 59: 197-211.

Works in Progress

Child Murder in America. An interregional study of murders of and by children from colonial times to the present (in manuscript through early 20th century)

"How Scientific Is Environmentalist History? The Rhetoric and Politics of Speaking for Nature" (essay in manuscript)

Editorial Boards

2014-2017, *American Historical Review*

2012-2016, 1995-2005, *Historical Methods*

2011- , *Homicide Studies*

2004- , *Crime, History, and Societies*

Invited Lectures

"Trust, Legitimacy, and the Recent Rise in Homicide in the United States," Council on Criminal Justice, Washington, D.C., October 19, 2022.

"The History of Police Involved Homicides in the United States," Mary Immaculate College & the University of Limerick, Ireland, October 26, 2021.

"Firearms and Homicide in the United States: A History," British Crime Historians Symposium, Leeds University, Great Britain, Scheduled for September

Randolph Roth

Page 9

2-3, 2021.

“The History of Cross-National Homicide Rates: What We Can Learn from the Available Historical Data, and Why We Have to Worry about Learning the Wrong Lessons,” Bielefeld University, Germany, scheduled for April 29, 2020. Postponed.

“Inequality,” Ashland University, October 16, 2019.

“The History of Gun Violence in America,” Shasta Seminar, Wesleyan University, October 28, 2017.

“Why Guns Are and Aren’t the Problem,” Ashland University Center for the Study of Nonviolence, Ashland University, April 1, 2017.

“Firearms and Violence in American History,” Aspen Institute, September 15, 2016, Washington, D.C.

“Homicide in the United States: The Long History and Recent Trends,” The Donald and Margaret Sherman Violence Prevention Lecture, Jerry Lee Center of Criminology, University of Pennsylvania, April 10, 2015.

“The History of Child Murder,” Andrew Young School of Public Policy, Georgia State University, January 28, 2014.

“The Causes of Homicide,” National Institute of Justice, December 2, 2013.

“Biology, History, and the Causes of Homicide,” School of Law, University of Buffalo, October 10, 2013.

“Bio-Historical Co-Evolution and the Biology of Social Behavior: The Prospects for a New Institute on History and the Sciences,” Max Planck Institutes, Berlin, Germany, June 27, 2013.

“Deterrence, Judicial Tolerance, and the Homicide Problem in America,” Robina Institute of Criminal Law and Justice, University of Minnesota, April 26, 2013

“Child Murder in America: A History,” Population Studies Center and Department of History, University of Michigan, April 8, 2013

“America’s Homicide Problem,” Northwestern University School of Law, November 16, 2012

“American Homicide,” Aspinall Lecture, Colorado Mesa University, April 5, 2012

Randolph Roth

Page 10

“Quantitative Analysis of the History of Crime and Violence: Achievements and Prospects,” Keynote Address, Conference on “Making Sense of Violence,” University of Bern, September 8, 2011

“Can We Learn to Play Well with Others? Enlisting the Humanities, the Sciences, and the Social Sciences in the Study of Violence.” Conference on Emerging Disciplines, Humanities Research Center, Rice University, February 25, 2011

“American Homicide,” Washington Forum, Ohio University, Athens, Ohio, May 25, 2010

“Can We Learn to Play Well with Others? Enlisting the Humanities, the Sciences, and the Social Sciences in the Study of Violence.” Presidential Plenary Address, Southwestern Social Science Association, Houston, Texas, April 1, 2010

“Homicide on Florida’s Antebellum Frontier,” Robert and Rose Stahl Criminal Justice Lecture, Lawton M. Chiles Center for Florida History, Florida Southern College, Lakeland, Florida, March 25, 2010

“Homicide in the American Backcountry, 1717-1850,” Keynote Address at the “From Borderland to Backcountry Conference: Frontier Communities in Comparative Perspective” at the University of Dundee, Scotland, July 7, 2009

“Research Strategies for Studying the History of Crime and Violence,” Seminar on Crime and Criminal Justice, Northwestern University School of Law, Nov. 15, 2007

“American Homicide: Its History,” Ohio State University at Newark, Nov. 6, 2007

“American Homicide: A Political Hypothesis” and “The Case for Social Science History,” Northern Illinois University, April 4-5, 2007

“What Historians Can and Might Learn from Legal Sources.” Seminar in Early American History, Northwestern University, Jan. 31, 2007

“Why Is America a Homicidal Nation? A Political Hypothesis,” lecture in the Historical Approaches in the Social Sciences series, State University of New York at Binghamton, Oct. 12, 2006

“The History of American Homicide,” Winter College, Ohio State University, Sarasota, Florida, February 24, 2006

“The Role of Small Arms in American History,” Small Arms Working Group,

Randolph Roth

Page 11

Harry Frank Guggenheim Foundation, Columbia University, June 2005

"Why is the United States So Homicidal Compared to Other Western Democracies? A Political and Psychological Hypothesis," Center for Historical Research and Documentation on War and Contemporary Societies, Belgian Ministry of Scientific Research, Brussels, Belgium, December 2004

"The History of American Homicide," Center for Law, Policy, and Social Science, Moritz College of Law, Ohio State University, November 2004

"Peaceable Kingdoms? Harmony and Hostility in the Early American Family," Plenary Session, Society of Historians of the Early American Republic, July 22, 2004

"American Homicide," Department of History, Miami University, March, 2004

"Slavery, Freedom, and the History of African-American Homicide." School of Law and Department of History, University of Chicago, January, 2003

"American Homicide," School of Law, Stanford University, February, 2003

Workshop of the Study of the History of Homicide, Department of History, Stanford University, February, 2003

"American Homicide," Social Science Faculty Seminar, Stanford University, February, 2003

"American Homicide," School of Law, Northwestern University, September, 2003

"American Homicide," School of Law, University of Chicago, November, 2002

"Twin Evils?: The Relationship between Slavery and Homicide," Department of History, Yale University, May, 2002

"The Puzzle of American Homicide," School of Law, Northwestern University, November, 2001

"Why Northern New Englanders Seldom Commit Murder: An Interregional History of Homicide in America," and "The Historical Database Project on Crime and Violence in America," two lectures presented at the Charles Warren Center, Harvard University. May, 2000

"Understanding Homicide in America: An Interregional Approach," presentation to the Early American History Seminar, University of Pennsylvania, October,

Randolph Roth

Page 12

1999

"Can Faith Change the World?" Keynote address, Conference on Reform in Antebellum Vermont, Vermont Historical Society, September, 1999

"Why Northern New Englanders Seldom Commit Murder," presentation to the Center for Research on Vermont, the University of Vermont, and the Vermont Council on the Humanities. The presentation was televised in Vermont. It also made the evening news in Burlington and an AP wire story on my presentation was printed widely in newspapers in New Hampshire and Vermont, April, 1999

Papers Delivered at Professional Meetings (recent)

"The Social and Geographical Context of Child Homicides in the United States, 1989-2015," Homicide Research Working Group, June 2, 2022, Excelsior Springs, Missouri, and Social Science History Association, November 17, 2022, Chicago.

"The Difficulty of Counting the Number of Children Killed in Homicides in the United States, 1959-Present." Social Science History Association, November 23, 2019, Chicago.

"Police Involved Homicides in Ohio, 1959-1988," American Society of Criminology, November 13, 2019, San Francisco, with Wendy Regoczi and Rania Issa.

"Can Criminologists and Historians of Crime Work Together More Fruitfully in the Future?" Social Science History Association, November 3, 2017, Montreal.

"Comparing Data Sources on the Police Use of Lethal Force," American Society of Criminology, November 15, 2017, Philadelphia, with Wendy Regoczi and Rania Issa.

"The History of Mass Murder," American Historical Association, January 6, 2017, Denver.

"The Historians' Role in Criminal Justice Research," American Society of Criminology, November 16, 2016, New Orleans

"Police and Security Guard Involved Homicides in Ohio, 1959-1988," American Society of Criminology, November 18, 2016, New Orleans

"Why History and Biology Matter to One Another: The Epigenetics of Social Behavior," American Historical Association, New York City, January 4, 2015

Randolph Roth

Page 13

“The National Homicide Data Improvement Project, 1959-Present: Why Research in Multiple Sources Changes Dramatically Our Understanding of the Incidence and Character of Homicides in the United States,” American Society of Criminology, San Francisco, November 19, 2014

"The Relationship between Guns, Homicides, and Suicide in American History," Organization of American Historians, Atlanta, April 4, 2014

“Situating Crime in Macro-Social and Historical Context,” Presidential Panel, American Society of Criminology, Atlanta, November 22, 2013

“Has Violence Declined since the Middle Ages?” Presidential Panel, American Society of Criminology, Chicago, November 15, 2012

“The Sudden Appearance of Sexual Serial Killers in Late-Nineteenth Century America,” Organization of American Historians, Houston, March 20, 2011

“The Biology of Social Behavior” at the annual conference of the Society of Historians of the Early American Republic, Philadelphia, July 15, 2011

“Measuring Feelings and Beliefs that May Facilitate (or Deter) Homicide,” at the American Society of Criminology meeting in Washington, D.C., November 16, 2011

“Measuring Feelings and Beliefs that May Facilitate (or Deter) Homicide,” at the Social Science History Association meeting in Boston, November 20, 2011

“Author Meets Critics” session on *American Homicide* at the European Social Science History conference in Ghent, Belgium, April 13, 2010. Discussants: Manuel Eisner, Peter King, and Pieter Spierenburg

“The Relationship between Guns and Homicide in American History,” American Society of Criminology conference in San Francisco, November 18, 2010

“Author Meets Critics” session on American Homicide at the Social Science History Association conference in Chicago, November 20, 2010. Discussants: Richard McMahon, Douglas Eckberg, Donald Fyson, and John Carter Wood

“Does Honor Hold the Key to Understanding Violence in the Early Republic,” Society for Historians of the Early American Republic, Springfield, Illinois, July 2009.

“The Difficulty of Reconciling the Homicide Counts in the National Center for Health Statistics Mortality Data and the FBI Supplementary Homicide Reports,”

Randolph Roth

Page 14

Social Science History Association, Long Beach, California, November, 2009

“Homicide in American History,” Ohio Academy of History, Dayton, Ohio, April 12, 2008

“Quantification and Social Theory in the Study of Crime and Violence,” in the Presidential Panel on “History in the Social Science History of Association: Disciplinary Developments,” Social Science History Association, Chicago, Nov. 15-18, 2007

“Are Modern and Early Modern Homicide Rates Comparable? The Impact of Non-Emergency Medicine,” Social Science History Association, Chicago, Nov. 15-18, 2007

“How Homicidal Was Antebellum Florida?” Gulf South History and Humanities Conference, Pensacola, Florida, Oct. 6, 2006

"Probability and Homicide Rates: Why We Can Be Certain the Nineteenth-Century West Was Violent." Social Science History Association convention in Minneapolis, Nov. 2-5, 2006

“The Historical Violence Database: A Collaborative Research Project on the History of Violent Crime and Violent Death.” Social Science History Association convention in Minneapolis, Nov. 2-5, 2006

“Big Social Science: What Could We Learn about Violent Crime If We Had Enough Money to Study It Properly? Possibilities for Collaborative Research Projects,” Social Science History Association, Portland, Oregon, November 3-6, 2005

Reviews

T. Cole Jones, *Captives of Liberty: Prisoners of War and the Politics of Vengeance in the American Revolution* (American Historical Review, 2021).

Chris Murphy, *The Violence Inside Us: A Brief History of an Ongoing American Tragedy* (Criminal Law and Criminal Justice Books, 2020).

Jeffrey S. Adler, *Murder in New Orleans: The Creation of Jim Crow Policing*. (Punishment and Society, 2020).

Heidi J. Osselaer, *Arizona's Deadliest Gunfight: Draft Resistance and Tragedy at the Power Cabin, 1918*. (Western Historical Quarterly, 2020).

Randolph Roth

Page 15

Iain McGilchrist, *The Master and His Emissary: The Divided Brain and the Making of the Western World*. (Journal of Interdisciplinary History, 2011).

Heather Cox Richardson, *Wounded Knee: Party Politics and the Road to an American Massacre*. (Journal of the Civil War Era, 2011).

Bill Neal, *Sex, Murder, and the Unwritten Law: Gender and Judicial Mayhem, Texas Style*. (New Mexico Historical Quarterly, 2010).

Gordon Morris Bakken and Brenda Farrington, *Women Who Kill Men: California Courts, Gender, and the Press*. (Pacific Northwest Quarterly, 2010).

Jack D. Marietta and Gail S. Rowe, *Troubled Experiment: Crime, Justice, and Society in Pennsylvania, 1682-1800*. (William and Mary Quarterly, 2010).

Mark R. Pogrebin, Paul B. Stretesky, and N. Prabha Unnithan, *Guns, Violence, and Criminal Behavior: The Offender's Perspective*. (Criminal Justice Review, 2010)

Nicole Rafter, *The Criminal Brain: Understanding Biological Theories of Crime*. (Journal of Interdisciplinary History, 2009.)

Laura Browder, *Her Best Shot: Women and Guns in America* (Winterthur Portfolio 2007).

Paul M. Searls, *Two Vermonts: Geography and Identity, 1865-1910* (Vermont History, 2006).

Anu Koskivirta, *The Enemy Within: Homicide and Control in Eastern Finland in the Final Years of Swedish Rule, 1748-1808* (English Historical Review 2005).

Irene Quenzler Brown and Richard D. Brown, *The Hanging of Ephraim Wheeler: A Story of Rape, Incest, and Justice in Early American* (H-SHEAR, 2003).

T. D. S. Bassett, *The Gods of the Hills* (New England Quarterly, 2001).

Karen Halttunen, *Murder Most Foul: The Killer and the American Gothic Imagination* (H-SHEAR, 1999).

Charles E. Clark, *The Meetinghouse Disaster* (Journal of American History, 1999).

Nicholas N. Kittrie and Eldon D. Wedlock, Jr., *The Tree of Liberty: A Documentary History of Rebellion and Political Crime in America* (Journal of the Early Republic, 1998).

Robert E. Shalhope, *Bennington and the Green Mountain Boys: The Emergence of Liberal Democracy in Vermont, 1790-1850* (Reviews in American History, 1997).

Daniel Doan, *Indian Stream Republic: Settling a New England Frontier* (Journal of the Early Republic, 1997).

Thomas H. Jeavons, *When the Bottom Line is Faithfulness: Management of Christian Service Organizations* (American Historical Review, 1996).

N. Prabha Unnithan, *The Currents of Lethal Violence: an Integrated Model of Suicide & Homicide* (Justice Quarterly, 1995).

Edward Jarvis, *Traditions and Reminiscences of Concord, Massachusetts, 1779-1878* (Journal of the Early Republic, 1995).

Charles Hoffman and Tess Hoffman, *Brotherly Love: Murder and the Politics of Prejudice in Nineteenth-Century Rhode Island* (American Historical Review, 1994).

Richard Bushman, *The Refinement of America: Persons, Houses, Cities* (Pennsylvania History, 1994).

Michael Bellisiles, *Revolutionary Outlaws: Ethan Allen and Vermont's Struggle for Independence* (William and Mary Quarterly, 1994).

David G. Hackett, *The Rude Hand of Innovation: Religion and Social Order in Albany, New York, 1652-1836* (American Historical Review, 1992).

Nat Brandt, *The Congressman Who Got Away With Murder* (New York History, 1992).

Tamara Plakins Thornton, *Cultivating Gentlemen: The Meaning of Country Life Among the Boston Elite, 1785-1860* (American Historical Review, 1991).

George M. Thomas, *Revivalism and Cultural Change: Christianity, Nation Building, and the Market in the Nineteenth-Century United States* (Pennsylvania History, 1991).

Richard D. Brown, *Knowledge is Power: The Diffusion of Information in Early America, 1700-1865* (The History of Education Quarterly, 1990).

William J. Gilmore, *Reading Becomes a Necessity of Life: Material and Cultural Life in Rural New England, 1780-1865* (Vermont History, 1990).

Randolph Roth

Page 17

Ruth Alden Doan, *The Miller Heresy, Millennialism, and American Culture* (Journal of the Early Republic, 1988).

William Lynwood Montell, *Killings: Folk Justice in the Upper South* (International Journal of Oral History, 1987).

David R. Kasserman, *Fall River Outrage: Life, Murder, and Justice in Early Industrial New England* (Journal of American History, 1987).

Robert J. Wilson III, *The Benevolent Diety: Ebenezer Gay and the Rise of Rational Religion in New England* (New England Quarterly, 1985).

Languages

German
Spanish
French (reading)

Quantitative Skills

Probability and Statistics (including econometric techniques of political analysis, exploratory data analysis, and log-linear and logit analysis)
Calculus and Analytical Geometry
Linear Algebra and Nonlinear Dynamics
Differential and Series Equations
Abstract Algebra

Randolph Roth

Page 18

Teaching

Graduate

History 7000	Topics in American History to 1877
History 7003	Readings in the Early Republic and Antebellum America
History 7650	Studies in World History
History 7900	Colloquium in the Philosophy of History, Historiography, and the Historian's Skills
History 8000	Seminar in Early American History

Undergraduate

History 2001	American Civilization, 1607-1877 (and Honors)
History 2015	History of American Criminal Justice
History 2650	World History since 1914
History 2800	Introduction to Historical
History 3164	World History since 1914: Readings
History 3193	Individual Studies / Research Internships in History
History 3700	American Environmental History
History 4650	History of Violence: Readings in World / Global / Transnational History
History 4675	Global History of Violence: Research Seminar
History 5900	Introduction to Quantitative Methods in History
History 598	Religious and Reform Movements (Senior Colloquium)
History 598	Research Seminar on Violent Crime and Death in the U.S.
History 557.02	Jeffersonian and Jacksonian Democracy, 1800-1840 Thought
History 282	American Religious History

Publications on Teaching

Founder and contributor to *Retrieving the American Past*, Department of History and Pearson Publishing, a flexible, problem-oriented publication for teaching classes in American History. Author of modules on “Violent Crime in Early America,” “Marriage in Colonial America,” and “Growing Up in Nineteenth-Century America.”

Ph.D Students Supervised

Daniel Vandersommers, “Laboratories, Lyceums, and Lords: Zoos, Zoology, and the Transformation of Humanism in Nineteenth-Century America,” August 2014. Recipient of a Presidential Fellowship, 2013-2014, the most prestigious

Randolph Roth

Page 19

University fellowship for senior graduate students. Assistant Professor of History, University of Dayton.

Michael Alarid, ““Caudillo Justice: Intercultural Conflict and Social Change in Santa Fe, New Mexico, 1837-1853,” June 2012. Assistant Professor of History, University of Nevada at Las Vegas.

Matthew Foulds, “Enemies of the State: Methodists, Secession and Civil War in Western Virginia, 1844-1865,” December 2011. Former Assistant Professor of History, Shepherd University

Jeanette Davis Mantilla, “Hush, Hush Miss Charlotte: Twenty-Five Years of Civil Rights Struggles in San Francisco, 1850-1875,” April 2000. Administrator in Charter School Division of the Department of Education, State of Ohio

Ken Wheeler, “The Antebellum College in the Old Northwest: Higher Education and the Defining of the Midwest,” January 1999. Professor of History, Reinhardt College. Author of *Cultivating Regionalism: Higher Education and the Making of the American Midwest* (Northern Illinois University Press, 2011)

Ross Bagby, “The Randolph Slave Saga.” July 1998. Librarian and independent scholar

Marianne Holdzkom, “Parody and Pastiche Images of the American Revolution in Popular Culture, 1765-1820,” May 1995. Professor of Social and International Studies, Southern Polytechnic State University

David Thomas, “Religion in the Far West: Oregon’s Willamette Valley, 1830-1850,” November 1993. Professor of History, Union College

Recent Senior Honors Thesis Students Supervised (recently)

Maggie Seikel, “The Great Depression in More Ways than One: Why Do Americans Commit Suicide More Often during Economic Crises?” (Anticipated 2021).

Margo Hertzler, “Police Involved Homicides in Ohio, 1959-1988.” (Anticipated 2021).

Laura Janosik, “Homicides Involving Women in Ohio, 1959-1988.” (2020). Prospective applicant to graduate school in history.

Randolph Roth

Page 20

Ben St. Angelo, “How Labor Disputes Led to Violence: Personalities, Paternalism, and Power at Republic Steel in Youngstown, Ohio: 1937.” (2017). Ph.D. student in History at Ohio State University.

Sarah Paxton, “The Bloody Ould Sixth Ward: Crime and Society in Five Points, New York” (2012). Ph.D. candidate in criminal justice history J.D. candidate at the Moritz School of Law at Ohio State University (twin degree program).

Kristen Gaston, “Restoration of the Cuyahoga River” (2012). Ph.D. candidate in Environmental History at the University of Cincinnati.

Alexandra Finley, “Founding Chestnut Ridge: The Origins of Central West Virginia’s Multiracial Community” (2010). Ph.D. candidate in early American history at the College of William and Mary. Recipient of the first Annual Prize at Ohio State for the outstanding senior honors thesis in the Department of History.

Randolph Roth

Page 21

Service

Service in Professional Organizations

2018-present, Allen Sharlin Book Prize Committee, Social Science History Association

2013-present, Grant Review Board, Harry Frank Guggenheim Foundation

2008-present, Editorial Board, *Crime, History, and Societies*.

2011-present, Editorial Board, *Homicide Studies*.

2014-2017, Board of Editors, *American Historical Review*

2014-15, 2016-17, Program Committee, American Society of Criminology

2014-2017, Research Awards Committee, Ohio Academy of History.

2011-2014, Chair, Distinguish Teaching Award Committee, Ohio Academy of History

2010-2011, Allan Sharlin Memorial Prize Committee, Social Science History Association

2010- ,Ohio Violent Death Reporting System Advisory Board

2010-2013, Advisory Board, Society for Historians of the Early American Republic

2008- , Society for the Scientific Detection of Crime, Columbus, Ohio

2009-2011, Youth Violence Prevention Advisory Board (Columbus)

2003, Nominating Committee, Social Science History Association

2002- , Co-founder and co-director, Historical Violence Database

1995-1997, ABC-Clio America: History and Life Award Committee, Organization of American Historians

1987-1993, Chair, Methods and Theory Network, Social Science History Association

Randolph Roth

Page 22

1987, Program Committee, Social Science History Association

Reviews of Manuscripts

American Historical Review
Journal of American History
William and Mary Quarterly
Journal of the Early Republic
Social Science History
Journal of Interdisciplinary History
Historical Methods
Journal of Women's History
Journal of the Family
Crime, History, and Societies
European Journal of Criminology
American Journal of Sociology
Sociological Quarterly
Criminology
Criminal Justice Review
Journal of Criminal Law and Criminology
Law and Social Inquiry
Homicide Studies
International Criminal Justice Review
International Journal of Law, Crime, and Justice
Law and Society Review
City and Community
Eras Review
Western Historical Quarterly
Canadian Journal of Sociology
Journal of the Gilded Age

Memberships in Professional Organizations (current)

American Historical Association
Organization of American Historians
Social Science History Association
European Social Science History Association
American Society of Criminology
Homicide Studies Working Group
American Association for the Advancement of Science

Service at Ohio State University

Randolph Roth

Page 23

Department

2006-2010, 2018-present, Undergraduate Placement / Enhancement Officer

1994-2015, 2018-present, Undergraduate Teaching Committee

2017-2018, Chair of Grievance Committee

2015-2017, 1991-1993, Chair of Graduate Studies

2012-2013, Chair of Undergraduate Studies

2011-2013, Advisory Committee and Salary Committee

1987-1991, History Department Promotion & Tenure Committee

College of Humanities

2007-2009, Curriculum Committee, College of Humanities

2002-2005, College of Humanities Computing Advisory Committee

1996-1997, College of Humanities Committee on the Center for the Study and Teaching of Writing, 1996-7; Affiliated Faculty Member, 2000-

College of Arts and Sciences

2006-2009, Alternate, Arts and Sciences Faculty Senate

2006- , Advisory Board, Criminal Justice Research Center, Department of Criminology and Sociology

2004- , Fellow, Center for Law, Policy, and Social Science, Moritz College of Law

2000- , Fellow, Criminal Justice Research Center, College of Social and Behavior Sciences

Graduate School

2018- , Graduate Awards Review Committee

Randolph Roth

Page 24

Ohio Department of Higher Education

2020- , Transfer Assurance Guide Review Panel, Ohio Articulation and Transfer Network

Service at Grinnell College

Chairman, African-American Studies Committee

Rosenfield Program on Public Affairs Committee

Faculty-Trustee Committee

Community Service

2001-2008, Chair, Community Services Advisory Commission, City of Dublin: advises City Council on all matters concerning utilities, policing, transportation, parks, recreation, waste management, etc.,

2004-present, Green Team, environmental projects volunteer organization, City of Dublin

2003-12, Committee to create an Indian burial mound and pioneer historic park at the Wright-Holder earthworks, City of Dublin

1997-present, Assistant Scoutmaster, Troop 299, Dublin / Citizenship Merit Badge Counselor / Eagle Scout Association / Philmont Staff Association / Distinguished Service Award, 2014 / Meritorious Service Award, 2006 / Bridge Builder Award, 2002

1997-2003, Good Schools Committee, Dublin City Schools, campaign committee for school bond and levy issues

1995-2005, President, Citizens for Dublin, city-wide association of civic association officers and city commission members

1995-1998, Vice-Chair, Transportation Task Force, City of Dublin

1995-1997, Community Plan Steering Committee, City of Dublin

Randolph Roth

Page 25

1988-present, President / Vice President / Trustee, East Dublin Civic Association

1987-present, Nature Conservancy / Volunteer Service Awards / Volunteer Crew Leader

Outreach / Media Appearances

Testimony to Oversight Committee of the Ohio Senate, December 22, 2020, on so-called “Stand Your Ground” laws.

B.R.E.A.D. (an interfaith organization dedicated to Building Responsibility Equality and Dignity), January 13, 2020, on gun violence in central Ohio.

Testimony to Federalism Committee of the Ohio House of Representatives, June 12, 2019, on concealed carry laws.

Worthington Senior Citizen Center, Inequality in the U.S., April 15, 2019

Canfield Residence Hall, Discussion of History of Criminal Enterprise in the U.S. with Undergraduate Students, April 10, 2019

“Gun Ownership in Decline,” *Columbus Dispatch*, December 11, 2017.

“How the Erosion of Trust Leads to Murders and Mass Shootings,” invited editorial, *Washington Post*, October 6, 2017

“Mass Murder in American History,” CSpan-3, April 2, 2017

All Sides with Ann Fisher, WOSU Radio, “Mass Murder and Terrorism,” December 9, 2015 and June 13, 2106; “The Recent Rise in Homicide in the United States,” March 14, 2017.

Consultant for the TLC Channel, “Who Do You Think You Are Anyway?” 2013-2014

Appeared on the CSPAN Book Channel on September 1, 2012 (<http://www.c-span.org/LocalContent/Columbus/>)

Appeared on the History Channel, “Seven Deadly Sins,” January 3, 2009 (A&E Home Video)

“It’s No Mystery: Why Homicide Declined in American Cities during the First Six Months of 2009,” History News Network, November 22, 2009

Randolph Roth

Page 26

(<http://cjrc.osu.edu/researchprojects/hvd/AHSV/It's%20No%20Mystery%2011-22-2009%205-2010.pdf> and <http://cjrc.osu.edu/researchprojects/hvd/AHSV/It's%20No%20Mystery%20Further%20Thoughts%201-1-2010%205-2010.pdf>)

Radley Balko, editor of reason.com, named *American Homicide* the best book of 2009 (<http://reason.com/archives/2009/12/30/the-year-in-books>)

“American Homicide,” address to Columbus Rotary Club, October 24, 2011

Radio interviews: Execution Watch with Ray Hill on KPFT Houston, Texas, and WPFW Washington, D.C., Nov. 10, 2009; Focus 580 with David Inge, WILL, Champaign-Urbana, Illinois, December 7, 2009; RadioWest with Doug Fabrizio, KUER and XM Public Radio Channel 133, Salt Lake City, Utah, Dec. 17, 2009; The Mark Johnson Show of the Radio Vermont Group, WDEV, Waterbury, Vermont, Dec. 30, 2009; The Current with Anna Maria Tremonti on the CBC, Toronto, Canada, January 6, 2010; The Marc Steiner Show on WEEA in Baltimore, January 26, 2010; by ABC Radio, Sydney, Australia, interviewed on March 3, 2010 for broadcast the week of March 8, 2010; by the Extension with Dr. Milt Rosenberg on WGN Radio 720 AM Chicago, broadcast December 9, 2010; the Gil Gross Show, KKSF Radio 910 AM, San Francisco, July 27, 2012; and The Marc Steiner Show on WEEA in Baltimore, December 17, 2012; *American Homicide* was the subject of an editorial by op-ed writer Gregory Rodriguez in the *Los Angeles Times*, Sunday, April 12, 2010 (<http://www.latimes.com/news/opinion/commentary/la-oe-rodriguez12-2010apr12,0,3217212.column>)

American Homicide was the subject of an editorial by Raina Kelley in *Newsweek*, Nov. 5, 2009 (<http://www.newsweek.com/id/221271>).

American Homicide was cited favorably in the *New York Times Sunday Magazine* in an article by Jeffrey Rosen, "Prisoners of Parole," January 10, 2010; and in the *Washington Post*, Nov. 22, 2009

Newspaper articles: quoted and/or reviewed in the *Washington Post*, the *Washington Times*, the *National Review*, the *Economist*, the *Wall Street Journal*, the *Boston Globe*, the *Chicago Tribune*, the *San Francisco Chronicle*, the *Los Angeles Times*, the *New York Times*, *New York Newsday*, the *Chronicle of Higher Education*, and the *Columbus Dispatch*, which ran a front-page article on Roth's work in a Sunday edition

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai‘i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

**DECLARATION OF ROBERT J
SPITZER**

DECLARATION OF ROBERT J. SPITZER

EXHIBIT "7"

DECLARATION OF ROBERT J. SPITZER

I, Robert J. Spitzer, declare as follows:

1. I have been asked to render an opinion on the history of firearms restrictions, including those enacted in the early twentieth century and earlier, addressing machine guns (fully automatic firearms), semiautomatic firearms, and ammunition feeding devices, and tracing those regulations back to earlier hardware and use restrictions on other types of weapons enacted in the nineteenth century and earlier.

2. This declaration is based on my own personal knowledge and experience, and if I am called to testify as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

3. I have been retained by Office of the Attorney General for the State of Hawai‘i to render expert opinions in this case. I am being compensated at a rate of \$500 per hour for consultation, research, writing, and preparation, and \$750 per hour for testimony in addition to reimbursement for reasonable travel costs and \$500 per day for travel.

BACKGROUND AND QUALIFICATIONS

4. I am a Distinguished Service Professor of Political Science Emeritus at the State University of New York at Cortland. I was also a visiting professor at Cornell University for thirty years. I earned my Ph.D. in Government from Cornell

University. I reside in Williamsburg, Virginia. A copy of my curriculum vitae is attached to this Declaration as **Exhibit A**.

5. I have been studying, teaching, and writing about gun policy for over thirty years. My first publication on the subject appeared in 1985. Since then, I have published six books and over one hundred articles, papers, and essays on gun policy. My expertise includes the history of gun laws, gun policy in American politics, and related historical, legal, political, and criminological issues. My book, *The Politics of Gun Control*, has been in print since its initial publication in 1995. It examines firearms policy in the United States through the lenses of history, law, politics, and criminology. The eighth edition of the book was published in 2021 by Routledge Publishers. My two most recent books on gun policy, *Guns Across America* (Oxford University Press, 2015) and *The Gun Dilemma* (Oxford University Press, 2023), both deal extensively with the study of historical gun laws. I am frequently interviewed and quoted in the national and international media on gun-related matters. For over twenty years, I have been a member of the National Rifle Association and of Brady (formerly, the Brady Campaign to Prevent Gun Violence).

6. I have provided written testimony as an expert witness in *Worman v. Healey*, No. 1:17-10107-WGY (D. Mass.), which concerned the constitutionality of Massachusetts' restrictions on assault weapons. I have co-authored amicus briefs in

numerous cases, including *Nordyke v. King*, U.S. Court of Appeals, Ninth Circuit, 319 F.3d 1185 (2003); *Republic of Iraq et al. v. Beatty et al.*, U.S. Supreme Court, 556 U.S. 848 (2009); *McDonald v. Chicago*, U.S. Supreme Court, 561 U.S. 742 (2010); *Ezell v. Chicago*, U.S. Court of Appeals for the Seventh Circuit, 651 F.3d 684 (2011); and *People of the State of Illinois v. Aguilar*, Illinois Supreme Court, No. 08 CR 12069 (2012). I have also been invited to submit written testimony and serve as an expert witness in the following cases: *Hanson v. District of Columbia*, Civil Action No. 1:22-cv-02256-RC (D.D.C.); *Brumback v. Ferguson*, No. 22-cv-3093 (E.D. Wash.); *Sullivan v. Ferguson*, Case No. 3:22-cv-05403-DGE (W.D. Wash.); *Miller v. Bonta*, No. 3:19-cv-1537 (S.D. Cal.); *Duncan v. Bonta*, No. 17-cv-1017 (S.D. Cal.); *Fouts v. Bonta*, 19-cv-1662-BEN (S.D. Cal.); *Rupp v. Bonta*, No. 8:17-cv-00746-JLS-JDE (C.D. Cal.); *Gates et al. v. Polis*, 2022-cv-01866 (D. Colo.); *Oakland Tactical Supply LLC v. Howell Township*, Case No.: 18-cv13443 (E.D. Mich.); *State v. Misch*, No. 173-2-19 Bncr (Bennington County Criminal Case) in Vermont Superior Court; *National Association for Gun Rights, Inc. v. City of Highland Park*, 22-cv-4774 (N.D. Ill.); *Abbott et al. v. Lopez*, Civil Action No. 20-00360 (RT) (D. Haw.); *Santucci v. Honolulu et al.*, 1:22-cv-00142-DKW-KJM (D. Haw.); and *Yukutake v. Lopez*, 1:22-cv-00323-JAO-KJM (D. Haw.).

7. I have also presented written testimony to the U.S. Congress on “The Second Amendment: A Source of Individual Rights?” submitted to the Judiciary

Committee, Subcommittee on the Constitution, Federalism, and Property Rights, U.S. Senate, Washington, D.C., September 23, 1998; “Perspectives on the ‘Stand Your Ground’ Movement,” submitted to the Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Human Rights, U.S. Senate, Washington, D.C., October 29, 2013; and “The Hearing Protection Act to Deregulate Gun Silencers,” submitted to Committee on Natural Resources, Subcommittee on Federal Lands, the U.S. House of Representatives, Hearings on the Sportsmen’s Heritage and Recreational Enhancement Act (SHARE Act), Washington, D.C., September 12, 2017.

SUMMARY OF OPINIONS

8. Gun ownership is as old as America, but so are gun laws. From the 1600s through the early twentieth century, the colonies, states and localities enacted literally thousands of gun laws of every imaginable variety. In this document, I demonstrate that a specific relationship existed between the development of new weapons technologies, their spread into society, and regulation by the government as part of a centuries-long effort to protect the public from harm and to dampen weapons-related criminality and violence. The pattern of criminal violence and concerns for public safety leading to weapons restrictions, as seen in contemporary restrictions on assault weapons and large capacity magazines, is not new; in fact, it can be traced back throughout the Nation’s history.

9. I examine a number of specific examples of weapons that, when they were invented or developed and then made their way into civil society, were subject to governmental restriction. The examples include restrictions on fully automatic (most famously the Tommy gun) and semi-automatic firearms, detachable ammunition feeding devices, both from the early twentieth century; analysis of experimental multi-shot firearms dating back several hundred years, and of multi-shot firearms that proved more successful, including Colt revolvers and Winchester rifles; Bowie and similar long-bladed fighting knives; clubs and other blunt weapons; anti-concealed carry laws; and restrictions on “trap guns.” Firearms and other dangerous weapons were subject to remarkably strict, consistent, and wide-ranging regulation throughout our history when they entered society, proliferated, and resulted in violence, harm, or contributed to criminality. This historical record is even more remarkable given that the United States was an evolving and developing nation-state that could not claim to have reached maturity until the twentieth century. The historical record summarized here makes clear that contemporary restrictions among the states pertaining to assault weapons and large capacity ammunition magazines are merely the latest iteration of a centuries-long tradition of weapons regulations and restrictions.

I. INTRODUCTION

10. The current controversy surrounding legislative efforts to restrict semi-automatic assault weapons, including assault pistols, and large capacity magazines would seem to be a purely contemporary matter, responding to the modern phenomenon of mass shootings. The effort to restrict such weapons was sparked in part by a shooting at an elementary school in Stockton, California in 1989, when a man armed with an AK-47 and a handgun killed five children and wounded thirty-three others. Later that year, California enacted the first assault weapons ban in the country. Five years later, Congress enacted a ten year ban.¹ As of this writing, nine states plus the District of Columbia have similar bans in place, as do various localities around the country.² These jurisdictions represent approximately 101

¹ Robert J. Spitzer, *The Politics of Gun Control*, 8th ed. (NY: Routledge, 2021), 25-26, 205-11.

² Giffords Law Center, Assault Weapons, <https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/assault-weapons/>; Robert J. Spitzer, *The Gun Dilemma* (NY: Oxford University Press, 2023), 14-15. The ten American jurisdictions with assault weapons bans are: California, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, and New York. Illinois enacted its law, including an LCM limit, in early 2023. C. Mandler, “Illinois governor signs ban on assault weapons and high-capacity magazines,” *CBS News*, January 10, 2023, <https://www.cbsnews.com/news/illinois-governor-signs-ban-on-assault-weapons-and-high-capacity-magazines/>. The U.S. House of Representatives passed a renewed federal assault weapons ban with magazine limitations in 2022 (H.R. 1808, 117th Cong. (2022)). Delaware enacted its assault weapons and large-capacity magazine restrictions in June 2022. *See* Governor Carney Signs Package of Gun Safety Legislation (June 30, 2022), <https://news.delaware.gov/2022/06/30/governor-carney-signs-package-of-gun-safety-legislation/>.

million people, or approximately 30.3% of the U.S. population.³ Fourteen states plus the District of Columbia restrict large capacity magazines (LCMs).⁴ These jurisdictions represent more than 115 million individuals, or approximately 34.5% of the U.S. population.⁵ And in 2022, the U.S. House of Representatives passed a renewed nationwide assault weapons ban with LCM restrictions.⁶

11. These recent efforts to restrict assault weapons and LCMs are simply the latest chapter in a centuries-long effort to promote public safety, protect the

³ See U.S. Census, National Population Totals and Components of Change: 2020-2022, https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-total.html#par_textimage_2011805803 (2022 state population estimates). The total population in these jurisdictions is estimated to be 101,000,000 out of a U.S. total of about 333,000,000.

⁴ Giffords Law Center, Large Capacity Magazines, <https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/large-capacity-magazines/>; Spitzer, *The Gun Dilemma*, 30. The fifteen jurisdictions are California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, New York, Oregon, Rhode Island, Vermont, and Washington. With two exceptions (Colorado and Delaware), all of these restrictions impose a ten-round limit on magazines, as did the 1994 federal law. Hawaii's restrictions apply to only handguns. The Illinois and Vermont laws limits magazines for long guns to ten rounds, and handguns to fifteen. Illinois' and Oregon's laws are currently subject to a temporary restraining order and a preliminary injunction, respectively, issued by state trial courts on state constitutional grounds.

⁵ U.S. Census, National Population Totals and Components of Change: 2020-2022, https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-total.html#par_textimage_2011805803 (2022 state population estimates). The total population in these jurisdictions is estimated to be over 115,000,000 out of a U.S. total of about 333,000,000. In 2022, the U.S. House of Representatives passed a renewed nationwide assault weapons ban with LCM restrictions. H.R. 1808, 117th Cong. (2022).

⁶ H.R. 1808, 117th Cong. (2022).

public from harm, and to dampen weapons-related criminality. The pattern of criminal violence and concerns for public safety leading to weapons restrictions is not new; in fact, it can be traced back to the Nation's beginnings. While the particular weapons technologies and public safety threats have changed over time, governmental responses to the dangers posed by certain weapons have remained constant. Current restrictions on assault weapons and detachable ammunition magazines are historically grounded. They are part of a pattern in America's history of legislative restrictions on particular weapons stretching back centuries.

II. REGULATORY HISTORY OF FULLY AUTOMATIC AND SEMI-AUTOMATIC FIREARMS

12. A clear example of this historical pattern is provided by early twentieth-century restrictions related to fully automatic firearms. While weapons capable of firing rounds in rapid succession can be traced to guns of the late nineteenth and early twentieth centuries, like the hand-cranked, multi-barreled Gatling gun which could fire up to 200 rounds per minute,⁷ it and its successors were military weapons designed to be used in combat and fired from a tripod or similar supporting apparatus, owing to the Gatling gun's size and weight. Strictly

⁷ The Gatling gun, a manually operated, hand-cranked machine gun, was adopted by the U.S. Army in 1866, and was utilized in warfare against Native Americans and in the Spanish-American War of 1898. Richard W. Stewart, *American Military History, Vol. I: The U.S. Army and the Forging of a Nation, 1775-1917* (Washington, D.C.: Center of Military History, 2008), 367-68; "Gatling Gun," *History.com*, September 9, 2021, <https://www.history.com/topics/american-civil-war/gatling-gun>.

speaking, guns like the Gatling gun were not fully automatic as they did not fire a continuous stream of bullets while depressing a gun trigger. The development of a fully automatic machine gun for battlefield use, capable of firing all of its rounds from a single barrel and with a single trigger pull, came to fruition during World War I. These tripod-mounted military guns, like the Maxim, operated to devastating effect on the battlefield. They initially fired 200-400 rounds per minute but later 400-600 rounds per minute from a gun weighing roughly 100 pounds.⁸

13. Out of World War I came a practical, lighter-weight, reliable, hand-held, fully automatic weapon: the Thompson submachine gun, widely known as the Tommy gun. Though it was developed for use in World War I as “purely a military weapon,”⁹ it came too late in the war to have much effect. Its inventor, John Thompson, patented his .45 caliber gun in 1920.¹⁰ The Tommy gun was initially unregulated after World War I and was made available for civilian purchase in order to try to boost anemic sales, typically with either a 20–30 round stick

⁸ Donald M. Snow and Dennis M. Drew, *From Lexington to Desert Storm: War and Politics in the American Experience* (Armonk, NY: M.E. Sharpe, 1994), 127; “How The Machine Gun Changed Combat During World War I,” Norwich University Online, October 15, 2020, <https://online.norwich.edu/academic-programs/resources/how-machine-gun-changed-combat-during-world-war-i>.

⁹ William J. Helmer, *The Gun That Made the Twenties Roar* (Highland Park, NJ: The Gun Room Press, 1969), 75.

¹⁰ Matthew Moss, “From Gangland to the Battlefield — 15 Amazing Facts About the Thompson Submachine Gun,” *Military History Now*, January 16, 2015, <https://militaryhistorynow.com/2015/01/16/from-gangland-to-the-battlefield-15-amazing-facts-about-the-thompson-submachine-gun>.

magazine or a 100-round drum magazine. (The U.S. military showed little interest in acquiring the weapon, as the military largely demobilized and contracted sharply in size after the war.¹¹) It was only at this point—in the early 1920s—that such hand-held weapons operated reliably, were made available to civilians, and began to circulate in society,¹² though sales in the early 1920s were sluggish. By 1925, Thompson’s marketing company, Auto-Ordnance, had sold only about 3,000 of the 15,000 it had manufactured up to this point, including to police forces and individuals.¹³ This pattern of anemic sales typified the gun’s commercial trajectory: “Despite its initial publicity and later notoriety, the Thompson submachine gun was a failure from the start.”¹⁴ This was especially true for police forces, to whom Thompson and his company marketed the gun aggressively, even when criminals found the gun appealing. “As a criminal’s weapon, the Tommygun was an unqualified success. As a police weapon, it was such a flop that many law-enforcement officials wished sincerely that it has never come off the drawing

¹¹ John Ellis, *The Social History of the Machine Gun* (NY: Pantheon, 1975), 149–52; Helmer, *The Gun That Made the Twenties Roar*, 161-64.

¹² Peter Suci, “The Thompson Submachine Gun: Made for the U.S. Postal Service?” *The National Interest*, July 3, 2020, <https://nationalinterest.org/blog/reboot/thompson-submachine-gun-made-us-postal-service-164096>.

¹³ Lee Kennett and James LaVerne Anderson, *The Gun in America* (Westport, CT: Greenwood Press, 1975), 203. Helmer confirms the number of 3000 guns sold by 1925. *The Gun That Made the Twenties Roar*, 74. Helmer says that “sales declined steadily” after 1921; see 130.

¹⁴ Helmer, *The Gun That Made the Twenties Roar*, 129.

board.”¹⁵ For example, after the 1929 St. Valentine’s Day massacre, a representative of Auto-Ordnance visited Chicago police captain John Stege to offer assistance. Captain Stege “practically ran him out of the office. . . . It was Stege’s opinion that not even the police should be armed with machine guns,” an opinion shared “by many other lawmen in the country.”¹⁶ Another police chief explained why: “It is not possible for a police officer to open a machine gun up on a crowded street . . . because you are going to kill possibly ten innocent people to one criminal.”¹⁷ Poor military and law enforcement sales forced the company to “peddle the new gun in peacetime” by trying “to think up something else it might be good for.” Their conclusion was to market the gun as “good for anything.”¹⁸

14. After 1926, sales began to rise, primarily because of newfound interest by the American military, which started to use the weapon in foreign military operations especially in Nicaragua, and by the Belgium military.¹⁹ In 1930, the Auto-Ordnance company closed down its sales department because of escalating concerns about its weapons falling into criminal hands, and the attendant bad publicity. All commercial sales were discontinued except to the military and law

¹⁵ Helmer, *The Gun That Made the Twenties Roar*, 126. Helmer quotes numerous police officials denouncing the weapon as useless for the police; see 126-28.

¹⁶ Helmer, *The Gun That Made the Twenties Roar*, 126.

¹⁷ Helmer, *The Gun That Made the Twenties Roar*, 126. The gun’s rare actual use confirmed this fear. In an attack on John Dillinger, for example, FBI agents “mistakenly shot three innocent customers.” (128).

¹⁸ Helmer, *The Gun That Made the Twenties Roar*, 75.

¹⁹ Helmer, *The Gun That Made the Twenties Roar*, 130-45.

enforcement.²⁰ The result was that by 1932, sales had fallen to fewer than ten per month. Through 1938, the company reported total sales of 10,300. The company's revival came thanks to World War II.²¹

15. Before the early 1920s, these fully automatic weapons were unregulated for the obvious reason that they did not exist or were not circulating widely in society. When they did begin to circulate, however, their uniquely destructive capabilities rapidly became apparent, especially to the emergent Prohibition-fueled gangster organizations of the 1920s. Another automatic weapon developed for World War I was the Browning Automatic Rifle (BAR). It fired a .30-06 caliber round, could receive a 20-round box magazine, and could fire up to 650 rounds per minute. The BAR first appeared on the battlefield in 1918.²² It was “a heavy machine rifle weighing nearly twenty pounds with bipod and loaded magazine. . . .”²³ It, too, made its way into civilian life and found favor among criminals and gangsters in the 1920s and early 1930s.²⁴ Guns like the Tommy gun

²⁰ Helmer, *The Gun That Made the Twenties Roar*, 143-44.

²¹ Helmer, *The Gun That Made the Twenties Roar*, 167-79.

²² Paul Richard Huard, “Browning Automatic Rifle: The Most Dangerous Machine Gun Ever?” *The National Interest*, November 19, 2019, <https://nationalinterest.org/blog/buzz/browning-automatic-rifle-most-dangerous-machine-gun-ever-97662>; “Browning automatic rifle,” *Britannica*, September 8, 2022, <https://www.britannica.com/technology/Browning-automatic-rifle>.

²³ Helmer, *The Gun That Made the Twenties Roar*, 37.

²⁴ Derek Avery, *Firearms* (Hertfordshire, England: Wordsworth Editions, 1995), 12. The BAR was a favorite of the notorious outlaws Bonnie and Clyde, for example. Christian Oord, “The Weapons of Bonnie & Clyde & the Guns That

and the BAR were actually used relatively infrequently by criminals generally, but when they were used, they exacted a devastating toll and garnered extensive national attention, such as their use in the infamous St. Valentine's Day massacre in Chicago in 1929.²⁵

16. I conducted a search of Newspapers.com from 1920-1930 using the search terms "Tommy Gun," "Thompson submachine" and "machine gun." The term Tommy Gun turned up essentially no hits until 1928, a clear indication that this particular term did not come into wide use until fairly late in the decade. The search for machine gun turned up more, but many of them referenced the weapons owned or used by the military (including many stories about World War I). The search for Thompson submachine was much more successful, yielding many articles from across the country. Starting in the fall of 1920, a few newspaper articles described regular reports of demonstrations of the gun for police and other government officials and agencies, and reports of local police forces sometimes purchasing a few of the guns. Reports of demonstrations of the gun to police forces and other state and local officials and also of some purchases appeared regularly starting in 1921, and continued throughout the 1920s, as did numerous articles

Stopped Them," *War History Online*, April 26, 2019, <https://www.warhistoryonline.com/history/weapons-of-bonnie-and-clyde.html?A1c=1>.

²⁵ Chris McNab, *Deadly Force: Firearms and American Law Enforcement* (NY: Osprey Publishing, 2009), 97–98.

describing the gun's development and capabilities by inventor John Thompson. These articles also reprinted standard accounts of the Tommy gun's weight, size, firing capabilities and possible uses by law enforcement. Despite this degree of coverage, however, relatively few of the guns were actually purchased in the 1920s, as noted earlier.

17. To cite a few examples of early news coverage, an account in the Western Sentinel ("New Type of Gun is Demonstrated Here," Winston-Salem, North Carolina; <https://www.newspapers.com/image/89498556>) from December 3, 1920 reported on a demonstration of the Tommy gun, saying that it weighed about seven pounds, fired .45 caliber rounds, could fire up to 1500 rounds per minute, could receive a box magazine holding 20 rounds, or a drum magazine with either 50 or 100 rounds. It went on to say that the gun was "without equal for riot use and for the police chasing thieves and other lawbreakers who attempt to escape in automobiles, for with this little weapon it is a very easy thing to rip the tires off of an escaping car, and the gun is so light and simple that an inexperienced man can fire with the effect of an expert marksman and moving targets can be hit with the ease that a fireman sprays a hose or on flame." Other articles touted the gun's usefulness in controlling riots and mobs. An account from the Jamestown Weekly Alert ("New Submachine Guns Received," Jamestown, North Dakota, May 12, 1921; <https://www.newspapers.com/image/465633429>) reported that state and

county officials were provided with ten of the guns for “hunting down whiskey runners in the northern part of the state.”

18. Starting in roughly late 1921 and early 1922, a handful of small news items reported thefts of Tommy guns from armories or police stations. The one notable crime-related case to receive enormous press attention was a major seizure of about 600 Tommy guns with ammunition and magazines, first reported about June 16, 1921, from a ship docked at the port of Hoboken, N.J. bound for Ireland for use by the IRA in the ongoing Irish rebellion (Ireland won its independence from Britain in 1922).

19. Newspaper reports of criminal use of Tommy guns were few, small, and sparse until 1926, when a few very sensational news reports of their criminal use received widespread and extensive attention in newspapers across the country. Most of these initial stories were reports of Chicago gangster use (notably one “Al Caponi” in an early account) along with stories from the New York City-New Jersey area. For example, an AP story from October 16, 1926 with the dateline Somerville, N.J. (“Use Expert Riflemen to Hunt Robbers,” Ithaca Journal, N.Y., <https://www.newspapers.com/image/254505945>) reported on “the advance of 500 city, state and volunteer police on the mountain stronghold of New Jersey’s machine gun mail bandits.” According to the account, eight men robbed a truck of over \$100,000 and were holed up at the stronghold. The authorities were also armed

with weapons that included machine guns, and were contemplating the expansion of the search party with 2000 militiamen.

20. Coinciding with these extensive stories were articles, editorials, and exposés calling for changes in the law to address this growing gun crime problem. For example, an article from the Boston Herald (“Machine Guns for All,” *Kennebec Journal*, Augusta, Maine, December 4, 1926, <https://www.newspapers.com/image/857617757>) began by quoting a magazine story from *Collier’s Weekly* that observed: “The police authorities are powerless to interfere with the sale and distribution of the highest powered instrument of destruction that has yet been placed at the convenience of the criminal element in this country.” The Herald sent out a man to see if an average person could buy a machine gun “without trouble.” The buyer’s conclusion: “He had no trouble” purchasing the gun, which the article labeled “a diabolical engine of death.” The article detailed that for the prospective gun purchaser, “Pistols would not be shown unless the customer exhibited a permit, but machine guns could be had over the counter with no such formalities.” The article concluded this way: “Here is a case where it seems that ‘there ought to be a law.’ This weapon. . . was designed for war. . . a machine gun is the greatest aid to crime that yet has been placed within the reach of criminals.”

21. Reports and exposés, juxtaposed with lurid and sensational accounts of Tommy gun criminality, built pressure on the states to enact anti-machine gun laws (at least 32 states did so between 1925 and 1933; see Exhibits B and D), and also put pressure on Congress to act. A long-stalled bill in Congress to restrict the interstate shipment of guns received renewed interest and support in 1926, eventually leading to congressional enactment of the Mailing of Firearms Act of 1927, a limited measure that failed to restrict interstate handgun shipment because it did not affect non-Postal Service shipments. From 1926 on, news stories were filled with the kind of sensational gangster-related stories that led to the Tommy gun being labeled the weapon that “made the Twenties roar,” and that also led to many anti-machine gun laws. For example, an article dated November 27, 1928 (“Machine Gun Ban Plan of Chicago,” *The Salt Lake Tribune*, <https://www.newspapers.com/image/542285510>) reported that “Chicago’s war on gangsters and racketeers was reopened tonight with the drafting of a law to prohibit the sale of machine guns. ‘Tommy guns,’ the bullet spitting little Thompson submachine guns which are inseparable from gang fights, bank robberies, assassinations and other major crimes. . . could be purchased as easily and legally in Chicago as a pound of meat. . . practically every sporting goods establishment in

Chicago carried the firearms and sold them readily. State Senator Arthur Huebsch will introduce the bill.” (Illinois adopted an anti-machine gun law in 1931.²⁶)

A. State-Level and Nationwide Attempts to Regulate Automatic and Semi-Automatic Firearms in the Early Twentieth Century

22. In response to the wider availability of firearms like the Tommy gun and the BAR, between 1925 and 1934, at least 32 states enacted anti-machine gun laws (see Exhibits B and D). These state (and eventually federal) enactments were anticipated, justified, and promoted by the National Conference of Commissioners on Uniform State Laws, a national organization formed in 1892 to provide “non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.”²⁷ (Today, the organization is known as the Uniform Law Commission.) In 1923, the Commission organized a special committee to draft a “Uniform Act to Regulate the Sale and Possession of Firearms.” In 1928, it issued a model law calling for the prohibition of the possession of “any firearm which shoots more than twelve shots semi-automatically without reloading.”²⁸ In 1930, it issued a model firearms act focusing on “guns of the pistol type.” In 1932, it issued a model act “intended not only to curb the use of

²⁶ Former Ill. Rev. Stat. ch. 38, ¶¶ 414a to 414g, “An Act to regulate the sale, possession and transportation of machine guns,” approved July 2, 1931.

²⁷ Uniform Law Commission, About Us, <https://www.uniformlaws.org/aboutulc/overview>.

²⁸ Report of Firearms Committee, 38th Conference Handbook of the National Conference on Uniform State Laws and Proceedings of the Annual Meeting 422–23 (1928).

the machine gun, but to make it unwise for any civilian to possess one of the objectionable type.” The Commission explained that, between 1923 and 1930, “the infant industry of racketeering grew to monstrous size, and with it the automatic pistol replaced the revolver, to be in turn displaced by a partly concealable type of machine gun—the Thompson .45 inch caliber submachine gun becoming most popular. . . .”²⁹

23. Congress enacted a machine gun ban for the District of Columbia in 1932 which defined a machine gun as “any firearm which shoots automatically or semiautomatically more than twelve shots without reloading.”³⁰ The National Rifle Association endorsed D.C.’s ban, stating “it is our desire [that] this legislation be enacted for the District of Columbia, in which case it can then be used as a guide throughout the states of the Union.”³¹ In his testimony before Congress in 1934 on the bill that became the National Firearms Act, NRA vice president Milton A. Reckord extolled his organization’s role in passing the 1932 D.C. law, saying, “. . . the association I represent is absolutely favorable to reasonable legislation. We are

²⁹ “Uniform Machine Gun Act,” National Conference of Commissioners on Uniform State Laws, Forty-Second Annual Conference, Washington, D.C., October 4-10, 1932, http://www.titleii.com/bardwell/1932_uniform_machine_gun_act.txt.

³⁰ “Hearings Before the Committee on Ways and Means, National Firearms Act, H.R. 9066,” U.S. House of Representatives, April 16, 18, May 14, 15, and 16, 1934 (Washington, D.C.: GPO, 1934), 45; 47 Stat. 650, ch. 465, §§ 1, 14 (1932).

³¹ S. Rep. No. 72-575, at 5–6 (1932).

responsible for the uniform firearms act. . . . in the District of Columbia. It is on the books now.”³²

24. In 1934, Congress enacted the National Firearms Act, which imposed a series of strict requirements on the civilian acquisition and general circulation of fully automatic weapons, like the Tommy gun. The National Firearms Act imposed a tax on the manufacture, sale, and transfer of listed weapons, including machine guns, sawed-off shotguns and rifles, silencers, and “any other weapons” with certain firing capabilities. Such weapons had to be registered with the Treasury Department, and the owners fingerprinted and subject to a background check, with the payment of a \$200 tax.³³ The early models of the Tommy gun could fire “an astounding 1,500 rounds per minute. A Tommy gun could go through a 100-round drum magazine in four seconds. Later versions fired 600 to 700 rounds per minute.”³⁴

25. In his opening statement to the Ways and Means Committee of the U.S. House of Representatives, Attorney General Homer Cummings made clear that the bill under consideration was designed to fight the epidemic of gun crime where criminals could evade capture by crossing state lines:

³² “Hearings Before the Committee on Ways and Means,” 36.

³³ 48 Stat. 1236.

³⁴ Moss, “From Gangland to the Battlefield.”

The development of late years of the predatory criminal who passes rapidly from State to State, has created a situation which is giving concern to all who are interested in law and order. . . . there are more people in the underworld today armed with deadly weapons, in fact, twice as many, as there are in the Army and the Navy of the United States combined. . . . In other words, roughly speaking, there are at least 500,000 of these people who are warring against society and who are carrying about with them or have available at hand, weapons of the most deadly character.³⁵

26. As one member of the committee observed, “The question in my mind and I think in the majority of the committee is what we can do to aid in suppressing violations by such men as [John] Dillinger and others.”³⁶

27. To address the problem, the original version of the bill proposed regulating both semi-automatic and fully automatic firearms, as it defined restricted machine guns as did the 1932 D.C. law, with its emphasis on outlawing guns that could fire rapidly and repetitively without reloading, whether semi-automatically or fully automatically: “The term ‘machine gun’ means any weapon designed to shoot automatically or semiautomatically 12 or more shots without reloading.”³⁷ The final version of the bill limited restrictions to fully automatic firearms.

28. In addition to the National Firearms Act’s restrictions on fully automatic weapons, during this same time period at least seven states plus the

³⁵ “Hearings Before the Committee on Ways and Means,” 4. The version of the bill that appears on page 1 of the Hearings had this definition of machine gun: “The term ‘machine gun’ means any weapon designed to shoot automatically or semiautomatically twelve or more shots without reloading.”

³⁶ “Hearings Before the Committee on Ways and Means,” 42.

³⁷ *Ibid.*, 52.

District of Columbia, and as many as ten states plus D.C., enacted laws restricting semi-automatic weapons (see Exhibit B).³⁸ The reason for restricting semi-automatic firearms is not hard to discern. These restrictions all appeared in the same statutes as those restricting fully automatic weapons, which utilize the same fundamental firearms technology: an action that automatically loads a new round into the chamber after each shot is fired, potentially with the use of detachable ammunition magazines or similar feeding devices, and is capable of firing numerous rounds without reloading.³⁹ During the time that Thompson and his company were developing and marketing the Tommy gun (which could fire in semi- or full-auto modes⁴⁰), they were also developing the Thompson Autorifle, a “strictly semiautomatic rifle” for which the military showed greater interest than it did for the Tommy gun.⁴¹ The Autorifle was also promoted to police and military organizations, though it was overshadowed by the Tommy gun.⁴²

³⁸ See also Robert J. Spitzer, “Gun Law History in the United States and Second Amendment Rights,” *Law and Contemporary Problems* 80 (2017): 68–71. The language of the restrictions in Louisiana, Illinois, and South Carolina was ambiguous regarding whether they applied to semi-automatic weapons.

³⁹ Spitzer, *The Gun Dilemma*, 32–33. In 1913, Florida enacted this measure: “It shall, at any time, be unlawful to hunt game in Marion County with guns—known as Automatic guns.” While an automatic weapon fires a continuous stream of bullets when the trigger is depressed, a semi-automatic weapon fires a single shot with each pull of the trigger.

⁴⁰ Helmer, *The Gun That Made the Twenties Roar*, 48-49, 255-56.

⁴¹ Helmer, *The Gun That Made the Twenties Roar*, 37, 50.

⁴² Helmer, *The Gun That Made the Twenties Roar*, 161. Ultimately, the military opted for the semiautomatic M1 Garand over the Autorifle.

29. As the prior discussion reveals, the regulation of automatic and semi-automatic weapons in the 1920s and 1930s was closely tied to the enhanced firing capacity of these weapons and the attractiveness (and use) of these weapons by criminals at that time, and the related understanding that these weapons had no justifiable civilian use. By that time, gun technology was now available that made it possible for ammunition to be reliably fired in rapid succession and guns to be reloaded through interchangeable ammunition magazines or similar devices. Again, the lesson is the same: once these technologies began to spread in civil society and be used for criminal or other dangerous purposes, regulatory efforts ensued.

B. State Regulation of Ammunition Feeding Devices

30. Restrictions on fully automatic and semi-automatic firearms were closely tied to restrictions on ammunition magazines or their equivalent, as both automatic and semi-automatic weapons are predicated on some kind of mechanical loading function or device that automatically feeds new rounds into the firing chamber after the previous round is fired. As is the case with contemporary state limitations on ammunition magazine capacity, state laws enacted early in the twentieth century imposed restrictions based on the number of rounds that could be fired without reloading, ranging from more than one (Massachusetts and Minnesota) up to a high of eighteen (Ohio).

31. Magazine capacity/firing limits were imposed in three categories of state laws (see Table 1 below): ten states plus the District of Columbia regulating semi-automatic and fully automatic weapons (California, District of Columbia, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Ohio, Rhode Island, South Dakota, and Virginia⁴³); eleven states regulated fully automatic weapons only, where the regulation was defined by the number of rounds that could be fired without reloading or by the ability to receive ammunition feeding devices (Illinois, Louisiana, Minnesota, New Jersey, North Dakota, Oregon, Pennsylvania, South Carolina, Texas, Vermont, and Wisconsin⁴⁴); and four states restricted all

⁴³ 1933 Cal. Stat. 1169; Act of July 8, 1932, ch. 465, §§ 1, 8, 47 Stat. 650, 650, 652 (District of Columbia); Act of July 2, 1931, 1931 Ill. Laws 452, 452; 1927 Mass. Acts 413, 413-14; Act of June 2, 1927, no. 372, 1927 Mich. Pub. Acts 887, 888; Mich. Pub. Acts 1929, Act No. 206, Sec. 3, Comp. Laws 1929; Act of Apr. 10, 1933, ch. 190, 1933 Minn. Laws 231, 232; Act of Apr. 8, 1933, no. 64, 1933 Ohio Laws 189, 189; 1927 R.I. Pub. Laws 256, 256; Uniform Machine Gun Act, ch. 206, 1933 S.D. Sess. Laws 245, 245; Act of Mar. 7, 1934, ch. 96, 1934 Va. Acts 137, 137. Two of these states enacted early laws focused on such weapons' use in hunting. New Jersey had a 1920 law making it "unlawful to use in hunting fowl or animals of any kind any shotgun or rifle holding more than two cartridges at one time, or that may be fired more than twice without reloading." 1920 N.J. Laws 67, ch. 31, Section 9. North Carolina made it "unlawful to kill quail with any gun or guns that shoot over two times before reloading" in 1917. 1917 N.C. Sess. Laws 309, ch. 209, Sec. 1.

⁴⁴ 1931 Ill. Laws 452-53, An Act to Regulate the Sale, Possession and Transportation of Machine Guns, §§ 1-2; Act of July 7, 1932, no. 80, 1932 La. Acts 336; 1927 N.J. Laws 180-81, A Supplement to an Act Entitled "An Act for the Punishment of Crimes," ch. 95, §§ 1-2; 1931 N.D. Laws 305-06, An Act to Prohibit the Possession, Sale and Use of Machine Guns, Sub-Machine Guns, or Automatic Rifles and Defining the Same . . . , ch. 178, §§ 1-2; 1933 Or. Laws 488, An Act to Amend Sections 72-201, 72-202, 72-207; 1929 Pa. Laws 777, §1; Act of Mar. 2,

guns that could receive any type of ammo feeding mechanism or round feeding device and fire them continuously in a fully automatic manner (California, Hawaii, Missouri, and Washington State).⁴⁵

1934, no. 731, 1934 S.C. Acts 1288; 1933 Tex. Gen. Laws 219-20, 1st Called Sess., An Act Defining “Machine Gun” and “Person”; Making It an Offense to Possess or Use Machine Guns. . . , ch. 82, §§ 1-4, § 6; 1923 Vt. Acts and Resolves 127, An Act to Prohibit the Use of Machine Guns and Automatic Rifles in Hunting, § 1; 1933 Wis. Sess. Laws 245, 164.01.

⁴⁵ 1927 Cal. Stat. 938, ch. 552, §§ 1–2; 1933 Haw. Sess. Laws 117; 1929 Mo. Laws 170; Wash. 1933 Sess. Laws 335.

TABLE 1AMMUNITION MAGAZINE RESTRICTIONS IN 23 STATES, 1917-1934⁴⁶

Semi-automatic and Fully Automatic Firearms (barred firearms holding more than the listed number of rounds or more without reloading)	Fully Automatic Firearms (barred firearms capable of firing the listed number of rounds or more without reloading or that could receive ammunition feeding devices)	All Firearms (any weapon capable of receiving rounds through certain named round-feeding devices)
<ul style="list-style-type: none"> -California (10 rounds; 1933) -District of Columbia (12 rounds; 1932) -Massachusetts (1 round; 1927) -Michigan (16 rounds; 1927) -Minnesota (1 round; 1933) -New Jersey (2 rounds; hunting only; 1920) -North Carolina (2 rounds; hunting only; 1917) -Ohio (18 rounds; 1933) -Rhode Island (12 rounds; 1927) -South Dakota (5 rounds; 1933) -Virginia (7 rounds; 1934) 	<ul style="list-style-type: none"> -Illinois (8 rounds; 1931) -Louisiana (8 rounds; 1932) -Minnesota (12 rounds; 1933) -New Jersey (any removable device holding rounds; 1927) -North Dakota (loadable bullet reservoir; 1931) -Oregon (2 rounds; 1933) -Pennsylvania (2 rounds; 1929) -South Carolina (8 rounds; 1934) -Texas (5 rounds; 1933) -Vermont (6 rounds; 1923) -Wisconsin (2 rounds; 1933) 	<ul style="list-style-type: none"> -California (1927) -Hawaii (1933) -Missouri (1929) -Washington State (1933)

See Exhibit D for statutory text.

⁴⁶ Including the District of Columbia. Note that California, Minnesota, and New Jersey appear twice in this table. The dataset from which this information is drawn ended in 1934, so it does not include any states that might have enacted similar restrictions after 1934. See Duke Law Center for Firearms Law, “Repository of Historical Gun Laws,” <https://law.duke.edu/gunlaws/>.

32. A 1927 California law, for example, prohibited the possession of any “machine gun,” where that term was defined to include:

all firearms known as machine rifles, machine guns or submachine guns capable of discharging automatically and continuously loaded ammunition of any caliber in which the ammunition is fed to such gun from or by means of clips, disks, drums, belts or other separable mechanical device.⁴⁷

The other three states in this category (Hawaii, Missouri, Washington⁴⁸) utilized this same description. In all, at least twenty-three states enacted twenty-six gun restrictions based on the regulation of ammunition magazines or similar feeding devices, and/or round capacity (see Table 1).

33. The original version of the legislation that became the National Firearms Act of 1934, as noted earlier, included this definition of machine gun that encompassed both semi-automatic and fully automatic firearms: “The term ‘machine gun’ means any weapon designed to shoot automatically or semiautomatically 12 or more shots without reloading.”⁴⁹ (This text was derived from the law enacted by Congress for the District of Columbia in 1932, which also stipulated a 12 round limit, as noted previously.⁵⁰ The final version of the 1934 bill was limited to fully automatic firearms only and did not include any limitation by

⁴⁷ 1927 Cal. Stat. 938.

⁴⁸ 1933 Haw. Sess. Laws 117; 1929 Mo. Laws 170; Wash. 1933 Sess. Laws 335.

⁴⁹ “National Firearms Act,” Hearings Before the Committee on Ways and Means, House of Representatives, on H.R. 9066, April 16, 18, and May 14, 15, and 16, 1934 (Washington, D.C.: GPO, 1934), 52.

⁵⁰ *Ibid.*, 45.

number of rounds fired.) Regulations concerning removable magazines and magazine capacity were thus common as early as the 1920s—the period of time when these weapons and devices began to make their way into civilian life and also contributed to violence and criminality, as illustrated by the Tommy gun narrative and other weapons discussed here—as these regulations were adopted by nearly half of all states, representing approximately 58% of the American population at that time.⁵¹

C. Lessons from the Regulation of Automatic and Semi-Automatic Firearms and Ammunition Feeding Devices in the Early Twentieth Century

34. The lesson from this sequence of events early in the twentieth century demonstrates that changes in gun policy followed a series of steps that respond to developments in firearms technologies and their use in crime, each dependent on the previous step. *First*, a new gun or gun technology is invented. *Second*, it may then be patented, though the patenting of a design or idea by no means assures that it will proceed beyond this point. *Third*, it is often developed with a focus on military applications and supplying military needs, not directly for civilian acquisition or use. *Fourth*, some military-designed weapons may then spread to, or be adapted to, civilian markets and use. *Finally*, if such weapons then circulate sufficiently in society to pose a safety, violence, or criminological problem or

⁵¹ U.S. Census, Historical Population Change Data (1910-1920) (using 1920 census data), <https://www.census.gov/data/tables/time-series/dec/popchange-data-text.html>.

threat, calls for government regulation or restriction then may lead to gun policy/law changes. New gun laws are not enacted when firearm technologies are invented or conceived. They are enacted when those technologies circulate sufficiently in society to spill over into criminal or other harmful use, presenting public safety concerns that governments attempt to address through their police and policy-making powers.

35. This lesson is significant because some argue that the absence of government gun regulations in history—at the time of the invention of various weapons or weapons developments—means that regulations now are unjustifiable, or have no historical basis. For example, David Kopel argues that “[m]agazines of more than ten rounds are older than the United States.”⁵² Drawing on examples like a firearm “created around 1580” capable of firing sixteen “‘superposed’ loads” (with each round stacked on top of the other); the Puckle gun said to fire eleven shots and patented in 1718; the Girandoni air rifle, invented in the late 1700s; and the Pepperbox pistol of the early 1800s,⁵³ Kopel suggests that “magazines of more than ten rounds are older than the Second Amendment.”⁵⁴ Therefore, by Kopel’s reckoning, since these weapons existed early in (or even before) the country’s existence, and were not specifically regulated, ipso facto, today’s governments are

⁵² David Kopel, “The History of Firearm Magazines and Magazine Prohibitions,” *Albany Law Review* 78 (2014-2015): 851.

⁵³ *Ibid.*, 852-54.

⁵⁴ *Ibid.*, 849.

unable to regulate assault weapons, like AR-platform rifles, or magazines exceeding certain capacities (typically, a ten-round limit).⁵⁵ More to the point, Kopel's claim that ammunition magazines holding "more than ten rounds" were "very commonly possessed in the United States since 1862" and were "owned by many millions of law-abiding Americans" dating back to the "mid-nineteenth century"⁵⁶ is simply false, as this Declaration demonstrates.

36. Kopel's and similar arguments⁵⁷ fail for two sets of reasons. First, as explained in the following section, this sort of narrative misrepresents the availability and capabilities of these early weapons. Second, the account fails to understand the relationship between firearms' technological development, their spread into civil society, and government gun policy. As one gun history expert noted, "the guns of 1830 were essentially what they had been in 1430: single metal tubes or barrels stuffed with combustible powder and projectiles" where "after every shot, the shooter had to carry out a minimum of three steps: pour powder into

⁵⁵ Ibid., 871-72 ("a court which today ruled that [10-round] magazines are 'dangerous and unusual' would seem to have some burden of explaining how such magazines, after a century and a half of being 'in common use' and 'typically possessed by law-abiding citizens for lawful purposes,' became 'dangerous and unusual' in the twenty-first century.").

⁵⁶ Ibid., 871. Kopel insists "that [10-round] magazines" have been "'in common use' and 'typically possessed by law-abiding citizens for lawful purposes'" for "a century and a half" (871-72). This claim is both false and unverified by his article.

⁵⁷ Declaration of Ashley Hlebnsky in Support of Plaintiffs' Motion for Preliminary Injunction, *Miller v. Becerra*, Case No. 3:19-cv-01537-BEN-JLB, United States District Court For The Southern District Of California, filed December 6, 2019 (Plaintiffs' Trial Exhibit 2).

the barrel; add a projectile. . .; then ignite the gunpowder and send the projectile on its way.”⁵⁸ The firearms and firearm feeding devices regulated in the early twentieth century in the previous account represented a dramatically different type of firearm, capable of reliable, rapid fire utilizing interchangeable ammunition feeding devices.

D. The History of Pre-Twentieth Century Firearms Technologies

37. As researchers and experts of gun history have noted, experimental multi-shot guns existed in the eighteenth century (with multi-shot experimental designs dating back as much as two centuries earlier). For example, a firearm from the late 1500s that could fire up to sixteen rounds is described in a book titled, *Firearms Curiosa*. But this book’s very title indicates why this narrative is irrelevant to the modern gun debate. The definition of “curiosa” is something that is rare or unusual. As the book’s author, Lewis Winant says, his book is about “oddity guns” and “peculiar guns.”⁵⁹ That is, they were anything but common, ordinary, or found in general circulation. Winant’s description of the sixteen shot gun from the 1500s is that “the first pull of the trigger” fires “nine Roman candle charges, a second pull will release the wheel on the rear lock and set off six more such charges, and finally a third pull will fire the one remaining shot.”⁶⁰ A “Roman

⁵⁸ Jim Rasenberger, *Revolver: Sam Colt and the Six-Shooter That Changed America* (NY: Scribner, 2021), 3-4.

⁵⁹ Lewis Winant, *Firearms Curiosa* (New York: Bonanza Books, 1955), 8, 9.

⁶⁰ *Ibid.*, 168.

candle charge” was defined by Winant as one where “the operator had no control of the interval between shots; he could not stop the firing once he had started it.”⁶¹ In other words, this firing process was more like lighting the fuse of a string of firecrackers, where their ignition occurs in a manner that cannot be controlled by the operator once the initial charge is ignited. Winant concludes: “Of all the ideas for producing multishot firearms the scheme of superimposing loads in one barrel is probably the oldest, the most discredited, the most frequently recurring, and also the most readily accepted as new.”⁶²

38. An early multi-shot gun, the “Puckle Gun,” patented in 1718 in London by James Puckle, could fire nine rounds per minute (hardly comparable to the firing capabilities of semi- and fully automatic weapons of the twentieth and twenty-first centuries). The patent drawing of this weapon shows it sitting on a tripod on the ground.⁶³ It was not a hand-held weapon. In the patent, Puckle described it as “a portable Gun or Machine (by me lately invented) called a DEFENCE.”⁶⁴ It was indeed a military weapon, as Winant says: “Of the oddities among military weapons none has received more publicity than the Puckle gun. . . . The Puckle invention was probably the first crank-operated machine gun. It embodied several elements that closely resemble construction features of Gatling,

⁶¹ Ibid., 166.

⁶² Ibid., 166.

⁶³ Ibid., 220.

⁶⁴ Ibid., 219.

Hotchkiss and other manually-operated machine guns.” Winant continued, “It is doubtful that any of the Puckle guns that may have been actually produced ever saw service.”⁶⁵ A different account of this weapon says: “There is in fact no record of such a gun ever having been built,”⁶⁶ although there are claims to the contrary. A contemporaneous poet, commenting on ‘Puckle’s Machine Company’, wrote ‘Fear not, my friends, this terrible machine. They’re only wounded who have shares therein.’”⁶⁷ This weapon “never advanced beyond the prototype stage.”⁶⁸

39. In short, it was an experimental weapon designed for military use, and the patent’s reference to “DEFENCE” was clearly a reference to military defense, not personal defense. As this account confirms, it was likely never even manufactured beyond perhaps a prototype. It was a failed effort, even though later gun inventors learned from its failure.

40. The Jennings multi-shot flintlock rifle from 1821, capable of firing up to twelve “superposed” shots before reloading,⁶⁹ is also cited as an early multi-shot gun. Yet according to *Flayderman’s Guide to Antique American Firearms*, its production quantity was so small as to be “unknown” and therefore is “extremely

⁶⁵ Ibid., 219-20.

⁶⁶ Ellis, *The Social History of the Machine Gun*, 13.

⁶⁷ Winant, *Firearms Curiosa*, 219-21. See also “The Puckle Gun: Repeating Firepower in 1718,” December 25, 2016, <https://www.youtube.com/watch?v=GPC7KiYDshw>.

⁶⁸ Rasenberger, *Revolver*, 3.

⁶⁹ Kopel, “The History of Firearm Magazines and Magazine Prohibitions,” 853.

rare,” unsurprising since it utilized fatally defective “superposed” firing (discussed earlier) relying on twelve individual touchholes.⁷⁰ Similar problems plagued or doomed multi-shot flintlock pistols of the early nineteenth century. According to Carl P. Russell: “Flintlock revolving pistols had been given trials and some practical use very early in the nineteenth century, but the loose priming powder in the pan of each cylinder constituted a hazard that was never eliminated.”⁷¹

41. Another example often cited is the Girandoni (or Girardoni) air rifle, a military weapon developed for crack shots in the Austrian army that was capable of firing up to 20 rounds. One of these was taken along on the Lewis and Clark expedition of 1804-1806.⁷² But these guns were a rarity, as they were extremely expensive, fragile, and complex, and few were made—no more than about 1,500.⁷³ In fact, the rifles never caught on as they proved to be impractical on the battlefield,

⁷⁰ Norm Flayderman, *Flayderman’s Guide to Antique American Firearms*, 9th ed. (Iola, IA: Gun Digest Books, 2007), 683.

⁷¹ Carl P. Russell, *Guns on the Early Frontier* (Lincoln, NE: University of Nebraska Press, 1957), 91.

⁷² David Kopel, “The history of magazines holding 11 or more rounds: Amicus brief in 9th Circuit,” *Washington Post*, May 29, 2014, <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/05/29/the-history-of-magazines-holding-11-or-more-rounds-amicus-brief-in-9th-circuit/>. The Girandoni air gun taken by Lewis and Clark was never used in combat or battle, but to impress the Native Americans they encountered. Whenever they planned to fire the gun, they were careful to prepare it before encountering Native Americans so that they were not aware of the extensive pre-fire preparations needed. See Stephen E. Ambrose, *Undaunted Courage* (NY: Simon and Schuster, 1996), 158, 160, and *passim*.

⁷³ Mike Markowitz, “The Girandoni Air Rifle,” *DefenseMediaNetwork*, May 14, 2013, <https://www.defensemedianetwork.com/stories/the-girandoni-air-rifle/>.

and even more so for civilian use. To wit: “Leather gaskets needed to be constantly maintained and swelled with water to sustain pressure. Once empty the reservoirs required a significant effort and 1500 strokes to restore full power. A supply wagon was subsequently outfitted with a mounted pump to readily supply soldiers but this negated one of the key features—mobility. The rudimentary fabrication methods of the day engineered weak threading on the reservoir neck and this was the ultimate downfall of the weapon. The reservoirs were delicate in the field and if the riveted brazed welds parted the weapon was rendered into an awkward club as a last resort.”⁷⁴ It was pulled from military service by 1815.⁷⁵

42. To take another example, the Volcanic repeating pistol, patented in 1854, was said to have the ability to fire up to “ten or greater rounds.”⁷⁶ The Volcanic Repeating Arms Company was founded in 1855, and it experimented with a number of design innovations. But the company was “short-lived” and went “defunct” in 1866, even though its partners included Horace Smith, Daniel B. Wesson, and Courtlandt Palmer.⁷⁷ Its patent and technological work were important for subsequent developments, especially for Smith and Wesson’s later

⁷⁴ John Paul Jarvis, “The Girandoni Air Rifle: Deadly Under Pressure,” *GUNS.com*, March 15, 2011, <https://www.guns.com/news/2011/03/15/the-girandoni-air-rifle-deadly-under-pressure>.

⁷⁵ Markowitz, “The Girandoni Air Rifle.”

⁷⁶ Declaration of Ashley Hlebinsky, *Miller v. Becerra*, 6 (Plaintiffs’ Trial Exhibit 2).

⁷⁷ Pamela Haag, *The Gunning of America* (NY: Basic Books, 2016), 51-52.

work, but the actual weapons produced by Volcanic were few, flawed, and experimental,⁷⁸ dubbed “radical defects” by Winchester himself.⁷⁹ In 1857 and 1858, Volcanic produced 3,200 “flawed” repeaters, most of which “collected dust for many decades” until the company finally sold them for fifty cents each to employees.⁸⁰

43. Another account laboring to establish early gun firing provenance asserts that “[s]emi-automatic technology was developed in the 1880s” with the “Mannlicher rifle. . . generally attributed to be the first semi-automatic rifle.”⁸¹ Yet this “development” was initially a failure: “Ferdinand von Mannlicher’s Model 1885 self-loading rifle design” was “a failure, never seeing anything even resembling mass production.”⁸² The true semi-automatic weapon did not become feasible and available until the beginning of the twentieth century, and the primary market was the military.⁸³

⁷⁸ “Volcanic Repeating Arms,” https://military-history.fandom.com/wiki/Volcanic_Repeating_Arms, n.d.; Flayderman, *Flayderman’s Guide to Antique American Firearms*, 303-5.

⁷⁹ Quoted in Haag, *The Gunning of America*, 56.

⁸⁰ Haag, *The Gunning of America*, 60.

⁸¹ Declaration of Ashley Hlebinsky, *Miller v. Becerra*, 8 (Plaintiffs’ Trial Exhibit 2).

⁸² Ian McCollum, “Mannlicher 1885 Semiauto Rifle,” *Forgotten Weapons*, May 6, 2015, <https://www.forgottenweapons.com/mannlicher-1885-semiauto-rifle/>.

⁸³ Philip Schreier, “A Short History of the Semi-Automatic Firearm,” *America’s 1st Freedom*, July 2022, 32-39.

44. The more well-known “pepperbox,” a multi-shot firearm where the number of shots capable of being fired repeatedly coincided with the number of barrels bundled together, found some civilian market popularity in the early 1800s, but it was rapidly eclipsed by the superior Colt revolver. The reason: pepperboxes were “heavy, lumpy, and impractical.”⁸⁴ The addition of more barrels added more weight to the gun. By another account, “because of its small bore, short range, and lack of accuracy, the pepperbox was by no means as satisfactory as a revolver for military use.”⁸⁵ Further, “[t]hey also had a nasty habit of discharging all their barrels at once. No shooter could be certain he would not get two or three innocent bystanders, as well as his intended victim.”⁸⁶ Indeed, the Colt revolver was “the first widely used multishot weapon,”⁸⁷ although it took decades for this and similar revolvers to catch on.

45. Colt’s technological developments notwithstanding, single shot guns were the ubiquitous firearm until after the Civil War, although some long gun repeaters appeared late in the Civil War.⁸⁸ Even so, the “standard infantry weapon

⁸⁴ Rasenberger, *Revolver*, 54.

⁸⁵ Lewis Winant, *Pepperbox Firearms* (New York: Greenberg Pub., 1952), 30.

⁸⁶ Larry Koller, *The Fireside Book of Guns* (NY: Simon and Schuster, 1959), 154. By another account, “it was a disconcerting but not uncommon experience to have all six barrels go off in unison.” Winant, *Pepperbox Firearms*, 32.

⁸⁷ Rasenberger, *Revolver*, 401.

⁸⁸ Kopel, “The history of magazines holding 11 or more rounds”; Kennett and Anderson, *The Gun in America*, 112-13.

[in the Civil War] remained the single-shot, muzzle-loaded weapon.”⁸⁹ Historian James M. McPherson concurred that, even though some repeating rifles appeared in the Civil War as early as 1863, single-shot muzzle-loaders “remained the principal infantry weapons throughout the war.”⁹⁰

46. As noted, the idea of an available, affordable, reliable multi-shot firearm did not arise until the development of Colt’s multi-shot revolver in the 1830s. Indeed, Colt biographer Jim Rasenberger says that Colt’s pistol was the first practical firearm that could shoot more than one bullet without reloading.⁹¹ Even then, Colt could not readily manufacture multi-shot weapons for many years because he could find no market for them, either from the government or the public. The government, in fact, dismissed such firearms as mere “novelties.”⁹² After an 1837 test of Colt’s gun and others the government concluded that it was “entirely unsuited to the general purposes of the service.”⁹³ The government also rejected the weapon after tests in 1836, 1840, and 1850. Colt’s early failure to cultivate either a military or a civilian market in the U.S. drove him to bankruptcy and then to market his guns to European governments in the 1840s. The gun made appearances in the pre-Civil War West, yet even during the Civil War, “Colt’s revolver was a sideshow

⁸⁹ Snow and Drew, *From Lexington to Desert Storm*, 90.

⁹⁰ James M. McPherson, *Battle Cry of Freedom* (NY: Oxford University Press, 1988), 475.

⁹¹ Rasenberger, *Revolver*, 3-5, 401.

⁹² Pamela Haag, *The Gunning of America* (NY: Basic Books, 2016), 24.

⁹³ Rasenberger, *Revolver*, 136.

through most of the war. . . .”⁹⁴ And though the Colt-type revolver “had proved itself, the official sidearm of the United States Army [in the Civil War] remained a single shot pistol.”⁹⁵ It took the Colt’s limited use during the Civil War to finally spur the post-Civil War proliferation of the Colt-type revolver and similar firearms into society.⁹⁶

47. While inventor Benjamin Henry claims credit for developing the first practical, lever action repeating rifle (patented in 1860), his competitor Winchester “deftly gutted” the Henry Arms Company, coopting it to form the Winchester Arms Company in 1866, paving the way for Winchester’s dominance.⁹⁷ The Winchester rifle could fire up to fifteen rounds without reloading, as could the Henry repeater.⁹⁸ Yet the widely known Winchester 1873, “was designed for sale to the Government as a military arm.”⁹⁹ A gun whose legendary status wildly outdistanced its actual production and impact, it was nevertheless an important firearm in the late nineteenth century, although this “quintessential frontier rifle flourished later, in the ‘post-frontier’ early 1900s. Its celebrity biography backdated its diffusion and even

⁹⁴ Ibid., 390.

⁹⁵ Kennett and Anderson, *The Gun in America*, 91.

⁹⁶ Haag, *The Gunning of America*, 34-37, 46-64. As Haag said, “the Civil War saved” the gun industrialists (65).

⁹⁷ Haag, *The Gunning of America*, 96.

⁹⁸ “Henry Model 1860,” Military Factory, https://www.militaryfactory.com/smallarms/detail.php?smallarms_id=356.

⁹⁹ Koller, *The Fireside Book of Guns*, 112.

its popularity.”¹⁰⁰ In fact, the slogan stating that the Winchester “won the West” was invented by a Winchester executive as a marketing ploy in 1919.¹⁰¹ An analysis of production runs of Henrys and Winchesters from 1861-1871 concluded that they produced a total of 74,000 guns. Most of them—about 64,000—were sold to foreign militaries, leaving about 9200 for domestic American sales. Of those, 8500 were acquired by Union soldiers, leaving a very small supply of guns for domestic civilian acquisition.¹⁰² By comparison, 845,713 Springfield “trap-door” single shot rifles were manufactured during this same time period.¹⁰³ Additionally, the Winchester was not a semi-automatic firearm; it was a lever-action rifle that required the shooter to manipulate a lever in a forward-and-back motion before each shot. And when the gun was emptied, it had to be manually reloaded, one round at a time.¹⁰⁴ The Winchester Model 1905, then called a “self-loading” rifle, was a true semi-automatic firearm. It could receive a five or ten round box

¹⁰⁰ Haag, *The Gunning of America*, 179.

¹⁰¹ *Ibid.*, 353.

¹⁰² Herbert G. Houze, *Winchester Repeating Arms Company: Its History & Development from 1865 to 1981* (Iola, WI: Krause Publications, 2004), 21, 36–41, 51, 59, 65–66, 71, 73, 75; Tom Hall to D. C. Cronin, New Haven, May 18, 1951; Box 8, folder 16, Winchester Repeating Arms Company, Office files (MS:20), McCracken Research Library, Cody, WY.

¹⁰³ According to an account of the Springfield, “The end of the Trapdoor series came in 1892, when the government adopted a bolt-action repeating rifle known as the Krag-Jorgensen.” “The Trap Door Rifle,” National Park Service, July 22, 2020, <https://www.nps.gov/spar/learn/historyculture/trapdoor-rifle.htm>.

¹⁰⁴ Normally, a Remington-type rifle is loaded from a feed ramp on the side of the

magazine, although from 1905 to 1920 only about 30,000 of the guns were made. Even in World War I, soldiers primarily used bolt-action one shot rifles that could fire about twelve rounds per minute.¹⁰⁵

48. With all this, the Winchester was by no means universally embraced by long gun users. Indeed, “a good many westerners would have nothing to do with the early Winchesters or other repeaters, for reasons they considered very sound, and not until the 1880s did the repeating rifle assert its dominance over the single-shot breechloader.”¹⁰⁶ According to A.C. Gould, writing in 1892, single-shot rifles were: “less complicated, and less liable to get out of order; will shoot a greater variety of ammunition; will shoot uncrimped ammunition, patched or unpatched bullets; will permit the use of a longer barrel; an explosive bullet can be used; a greater range of rear sights on tang can be used.”¹⁰⁷ Historian Vorenberg confirms

rifle.

¹⁰⁵ Robert Johnson and Geoffrey Ingersoll, “It’s Incredible How Much Guns Have Advanced Since The Second Amendment,” *Military & Defense*, December 17, 2012, <https://finance.yahoo.com/news/incredible-much-guns-improved-since-174927324.html>; Phil Bourjaily, “Blast From the Past: Winchester Model 1905,” *Field & Stream*, January 11, 2019, <https://www.fieldandstream.com/blast-from-past-winchester-model-1905/>.

¹⁰⁶ Louis A. Garavaglia and Charles G. Worman, *Firearms of the American West, 1866-1894* (Albuquerque, NM: University of New Mexico Press, 1985), 129. Historian Michael Vorenberg says that “Henrys and Winchesters were. . . repeating rifles, but because they were in a class of their own, due to their high capacity, they were generally known only as Henrys or as Winchesters.” Declaration of Michael Vorenberg, 7.

¹⁰⁷ Quoted in Garavaglia and Worman, *Firearms of the American West, 1866-1894*, 131.

this analysis: “There were civilians during Reconstruction who owned high-capacity rifles, to be sure. Yet almost all such civilians were ‘frontiersmen’ of the Western Territories, and the population of the Western Territories was tiny compared to the population of the United States as a whole. Furthermore, Henrys and Winchesters, the only high-capacity firearms of the era, were not the preferred firearms of the ‘frontiersmen’ of the region.”¹⁰⁸

49. The rise in the circulation of multi-shot handguns in society was accompanied by the rapid spread of concealed carry restrictions (see Exhibits B-E), especially in the post-Civil War period, precisely because of their contribution to escalating interpersonal violence.¹⁰⁹ By the end of the nineteenth century, virtually every state in the country prohibited or severely restricted concealed gun and other weapons carrying.¹¹⁰ In addition, in the late 1800s and early 1900s at least a half-dozen states barred possession of such weapons outright, regardless of other circumstances.¹¹¹ As discussed earlier, it was only in the post-World War I era

¹⁰⁸ Declaration of Michael Vorenberg, 48, *National Association for Gun Rights v. Campbell*, No. 1:22-cv-1143, Dkt. 21-11, ¶ 51 (D. Mass., dated Jan. 25, 2023).

¹⁰⁹ Dickson D. Bruce, *Violence and Culture in the Antebellum South* (Austin, TX: University of Texas Press, 1979); Randolph Roth, *American Homicide* (Cambridge, MA: Belknap Press, 2012), 218-19.

¹¹⁰ Spitzer, “Gun Law History in the United States and Second Amendment Rights,” 63-67.

¹¹¹ 1917 Cal. Sess. Laws 221-225; 1923 Cal. Stat. 695; Illinois Act of Apr. 16, 1881, as codified in Ill. Stat. Ann., Crim. Code, chap. 38 (1885) 88; Geoffrey Andrew Holmes, *Compiled Ordinances of the City of Council Bluffs, and Containing the Statutes Applicable to Cities of the First-Class, Organized under the*

when multi-shot semi-automatic and fully automatic long guns began to circulate appreciably in society and came to be associated with criminal use that they became a regulatory and public policy concern.

50. As noted earlier, the problems with arguments claiming that historical multi-shot weapons were both viable and commonly possessed before the late nineteenth century are two-fold: they misrepresent the actual past of the weapons cited, and even more importantly fail to understand the connection between gun technology developments and the steps leading up to changes in gun-related public policy to regulate threats posed by those developments. As discussed previously, that process has occurred, both historically and in the modern era, through a series of sequential steps.

51. First, a new gun or gun technology must be invented. Second, it is then normally patented, noting that there are many steps between a patent, actual gun production, distribution and dissemination. As Lewis Winant sardonically

Laws of Iowa Page 206-207, Image 209-210 (1887) § 105; William H. Baily, The Revised Ordinances of Nineteen Hundred of the City of Des Moines, Iowa Page 89-90, Image 89-90 (1900) § 209; 1883 Kan. Sess. Laws 159, §§ 1-2; George R. Donnan, Annotated Code of Criminal Procedure and Penal Code of the State of New York as Amended 1882-5 Page 172, Image 699 (1885) § 410; 1913 N.Y. Laws 1627-30, vol. III, ch. 608, § 1; 1931 N.Y. Laws 1033, ch. 435, § 1; 1915 N.D. Laws 96, ch. 83, §§ 1-3, 5; 1923 S.C. Acts 221. Not included in this list are other state laws that barred weapons possession to specific groups (Native Americans, enslaved persons, minors) or that criminalized weapons possession by individuals if they committed a crime with the listed weapons.

observed, “Many patents are granted for arms that die a-borning.”¹¹² And as gun expert Jack O’Connor wrote, “many types of guns were invented, produced and discarded through the early years of the development of the United States.”¹¹³ Third, weapons development is historically tied to military need and military acquisition, not directly for civilian use or self-defense applications. Military weaponry is developed without consideration of potential civilian use and the consequences of dissemination in the civilian market.¹¹⁴ Fourth, some military-designed weapons may then spill over into, or be adapted to, civilian markets and use. Fifth, if such weapons then circulate sufficiently to pose a public safety or criminological problem or threat, calls for government regulation or restriction then may lead to gun policy/law changes. This general sequence is echoed in works like the *Buyer’s Guide to Assault Weapons*, a standard reference work on assault weapons.¹¹⁵

¹¹² Winant, *Firearms Curiosa*, 36.

¹¹³ Jack O’Connor, *Complete Book of Rifles and Shotguns* (NY: Harper & Row, 1961), 42.

¹¹⁴ Note that the third step, and perhaps the second, do not apply to non-firearms weapons discussed here—in particular, the Bowie knife and various clubs. These weapons were mostly not developed for military use, though Bowie knives, for example, were carried by some soldiers during the Civil War. Knives and clubs are far simpler technologically compared to firearms (and of course do not rely on ammunition) and thus were much more easily made, reproduced, and circulated.

¹¹⁵ Phillip Peterson, *Buyer’s Guide to Assault Weapons* (Iola, IA: Gun Digest Books, 2008), 4-7. Peterson’s Foreword summarizes a similar relationship between weapons development and subsequent calls for regulation.

52. Again, to simply assert or assume that past firearms design/development, invention, or patenting equals commonality, viability, or a measurable presence or impact on society, is a leap in logic without historical foundation. It would be as logical to reject modern governmental regulation of electric power through such government agencies as state power commissions and the Federal Energy Regulatory Commission because no such regulation was enacted around the time of Benjamin Franklin's experiments with electricity in the mid-eighteenth century. The fact that inventors worked on new firearm designs and modifications tells us nothing about the consequences of such designs for society and public policy. And the existence of such designs does not equal technological viability or reliability, much less general availability, much less societal circulation and use of these weapons. Other weapons subject to government restriction in our history further illustrate these principles.

E. Clarifying Terms and Concepts

53. These recent efforts to restrict assault weapons and LCMs are simply the latest chapter in a centuries-long effort to promote public safety, protect the public from harm, and to dampen weapons-related criminality. The pattern of criminal violence and concerns for public safety leading to weapons restrictions is not new; in fact, it can be traced back to the Nation's beginnings. While the particular weapons technologies and public safety threats have changed over time, governmental responses to the dangers posed by certain weapons have remained

constant. Current restrictions on assault weapons and detachable ammunition magazines are historically grounded. They are part of a pattern in America's history of legislative restrictions on particular weapons stretching back centuries.

54. The Plaintiffs' Amended Complaint asserts that the term "assault pistol" . . . is not a technical term used in the firearms industry or community for firearms commonly available to civilians. Instead, the term is a rhetorically charged political term meant to stir the emotions of the public. . . ." ¹¹⁶

55. This assertion is incorrect. The terms "assault weapon," "assault rifle," and "assault pistol" were the very terms used by the gun companies that first produced, marketed, and sold such weapons to the public. The gun industry's use of these terms appeared in the early 1980s (well before 1989), before political efforts to regulate them emerged in the late 1980s and early 1990s. ¹¹⁷

56. A study of the marketing strategies employed by gun manufacturers and gun publications from the time that such weapons emerged in the American civilian market in a significant way in the early 1980s verifies this. It reports on, and quotes directly from gun company advertisements and gun magazines employing these terms such as: Intratec extolling its TEC-9 in an advertisement

¹¹⁶ Plaintiff Amended Complaint, National Association for Gun Rights and Rondelle Ayau and Jeffrey Bryant, No. 22-cv-00404 DKW-RT.

¹¹⁷ Violence Policy Center, *The Militarization of the U.S. Civilian Arms Market*, June 2011, <http://www.vpc.org/studies/militarization.pdf#page=33>; also Violence Policy Center, *Assault Weapons and Accessories in America*, 1988, <http://www.vpc.org/studies/awacont.htm>; <http://www.vpc.org/studies/thatintr.htm>.

saying that the gun “clearly stands out among high capacity 9mm assault-type pistols” (see Exhibit I); Heckler and Koch selling its “HK 91 Semi-Automatic Assault Rifle”; the “Bushmaster assault rifle”; the AKM “imported assault rifle”; the Beretta M-70 that “resembles many other assault rifles”; the AR-10/XM-10 (made by Paragon S&S Inc.) advertised as a “Famous Assault Rifle [that] is Now Available in a Semi Auto Civilian Legal Form!” (see Exhibit J); the “AMT 25/.22 Lightning Carbine” that was advertised as an “assault-type semi-auto”; and the after-market supplier Assault Systems that appealed to civilian owners of “assault weapons,” among many other examples. The use of military terminology, and the weapons’ military origins, character, and appearance, were key to marketing the guns to the public.¹¹⁸ *Guns & Ammo* magazine described the “success of military assault rifles in the civilian market” in its July 1982 issue.¹¹⁹ In 1984, *Guns & Ammo* advertised a book called *Assault Firearms* that the magazine extolled as “full of the hottest hardware available today.”¹²⁰

57. As a standard buyer’s guide on assault weapons noted, the “popularly-held idea that the term ‘assault weapon’ originated with anti-gun activists, media or

¹¹⁸ Tom Diaz, *Making a Killing* (NY: The New Press, 1999), 124–128, 230–231; Tom Diaz, *The Last Gun* (New York: The New Press, 2013), 142–43.

¹¹⁹ “Wooters Chooses the 10 Best Gun Designs,” *Guns & Ammo*, July 1982, 58, 68; Diaz, *Making a Killing*, 126.

¹²⁰ Erica Goode, “Even Defining ‘Assault Rifles’ Is Complicated,” *New York Times*, January 17, 2013, A1, <https://www.nytimes.com/2013/01/17/us/even-defining-assault-weapons-is-complicated.html>.

politicians is wrong. The term was first adopted by the manufacturers, wholesalers, importers and dealers in the American firearms industry”¹²¹ The more expansive phrase “assault weapon” is generally used over “assault rifle” or “assault pistol” because “weapon” also includes not only rifles but those shotguns and handguns that were also subject to regulation in the federal 1994 assault weapons ban and subsequent laws.

58. An article in *Outdoor Life* belied the claim that assault weapons are limited only to those that fire fully automatically. That article urged its readers to share its information with non-shooting friends to dispel “myths” about “assault weapons.” In its account, it correctly noted that “the term ‘assault weapon’ . . . generally referred to a type of light infantry firearm initially developed in World War II; a magazine-fed rifle and carbine suitable for combat, such as the AK-47 and the M16/M4. These are selective-fire weapons that can shoot semi-auto, full-auto, or in three-round bursts.”¹²²

59. The effort to rebrand “assault weapons” as something more benign and severed from its military origins was seen in the publication struggles of Phillip Peterson, whose book, titled as recently as 2008, *Gun Digest Buyer’s Guide to*

¹²¹ Phillip Peterson, *Gun Digest Buyer’s Guide to Assault Weapons* (Iola, WI: Gun Digest Books, 2008), 11.

¹²² John Haughey, “Five Things You Need to Know About ‘Assault Weapons’,” *Outdoor Life*, March 19, 2013, <http://www.outdoorlife.com/blogs/gun-shots/2013/03/five-things-you-need-know-about-assault-weapons>.

Assault Weapons,¹²³ is a well-known reference work on the subject. As Peterson explained, the gun industry “moved to shame or ridicule” those who used the phrase “assault weapons,” insisting that the term should now only apply to fully automatic weapons. Peterson noted that the origin of the term “assault weapon” was the industry itself.¹²⁴ He found that the NRA refused to sell his book until he changed the title, which in 2010 he renamed *Gun Digest Buyer’s Guide to Tactical Rifles*.¹²⁵ The very same pattern played out in Canada, where gun companies also used the term “assault rifle” in the 1970s and 1980s until political pressure began to build to restrict such weapons in the aftermath of a mass shooting in Montreal in 1989. By the 1990s, gun companies marketing guns in Canada and their allies also adopted terms like “modern sporting rifles.”¹²⁶

60. The Plaintiffs Complaint also questions the restriction on large capacity magazines (LCMs) holding more than ten rounds. But this is not a new designation.

¹²³ Peterson, *Gun Digest Buyer’s Guide to Assault Weapons*.

¹²⁴ Goode, “Even Defining ‘Assault Rifles’ Is Complicated.”

¹²⁵ Phillip Peterson, *Gun Digest Buyer’s Guide to Tactical Rifles* (Iola, WI: Gun Digest Books, 2010).

¹²⁶ According to Blake Brown, Canadian newspapers ran ads from gun companies selling weapons like the “AR-15 semi-automatic assault rifle,” the “Colt AR-15 Semi Auto Assault Rifle,” and the “SKS Assault Rifle” among others, in 1976, 1982, 1983, 1985, and 1986 from dealers and companies including MilArm, Colt, and Ruger. “Gun Advocates’ Changing Definition of ‘Assault Rifles’ is Meant to Sow Confusion,” *Toronto Globe and Mail*, May 21, 2020, <https://www.theglobeandmail.com/opinion/article-gun-advocates-changing-definition-of-assault-rifles-is-meant-to-sow/>.

61. First, the LCM definition of one holding ten or more rounds dates back to at least 1991,¹²⁷ in an early version of the law Congress eventually passed in 1994 that said the term “large capacity ammunition feeding device” was defined in the law as “a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition. . . .”¹²⁸ Since that time, eleven states plus the District of Columbia have adopted the LCM ten round limit (see earlier discussion).

62. Second, the definition of LCMs based on a ten round limit has been and is widely accepted and used in the scholarly literature in criminology and other fields examining such devices.¹²⁹ Third, as Table 1 and the accompanying

¹²⁷ Violent Crime Control and Law Enforcement Act of 1994, H.R. REP. 103-489, H.R. Rep. No. 489, 103RD Cong., 2ND Sess. 1994, 36.

¹²⁸ Violent Crime Control and Law Enforcement Act of 1994, 6.

¹²⁹ For example: Gregg Lee Carter, ed., *Guns in American Society*, 3 vols. (Santa Barbara, CA: ABC-CLIO, 2023), III, 426-29; Jaclyn Schildkraut and Tiffany Cox Hernandez, “Laws That Bit The Bullet: A Review of Legislative Responses to School Shootings,” *American Journal of Criminal Justice* 39, 2 (2014): 358-74; Luke Dillon, “Mass Shootings in the United States: An Exploratory Study of the Trends from 1982-2012,” Mason Archival Repository Service, George Mason University, May 22, 2014, <http://mars.gmu.edu/xmlui/handle/1920/8694>; Jaclyn Schildkraut, “Assault Weapons, Mass Shootings, and Options for Lawmakers,” Rockefeller Institute of Government, March 22, 2019, <https://rockinst.org/issue-area/assault-weapons-mass-shootings-and-options-for-lawmakers/>; Christopher Koper, et al., “Assessing the Potential to Reduce Deaths and Injuries from Mass Shootings Through Restrictions on Assault Weapons and Other High-Capacity Semiautomatic Firearms,” *Criminology & Public Policy*, 19(February 2020): 157; Philip J. Cook and Kristin A. Goss, *The Gun Debate*, 2nd ed. (NY: Oxford University Press, 2020), 201.

discussion in this document shows, from 1917 to 1934 roughly half of the states in the U.S. enacted laws that restricted various ammunition feeding devices, or guns that could accommodate them, based on a set number of rounds, though the numerical cap for gun firing without reloading varied at that time from more than a single round up to eighteen (the modern standard for the most part became ten rounds, rather like the way in which highway speed limits came to be set at 55 miles per hour on open two-lane roads, and 65 to 70 miles per hour on four-lane divided highways). Thus, the idea of restricting removable magazines by capping the number of rounds dates back a century.

III. HISTORICAL HARDWARE RESTRICTIONS ON KNIVES, BLUNT WEAPONS, PISTOLS, AND TRAP GUNS

63. Similar to government regulation of certain types of firearms and ammunition feeding devices in the early twentieth century, which occurred only after the weapons technologies matured, entered the civilian market, and threatened the public through criminal use, government regulation of other weapons typically followed a version of this trajectory during the 1700s and 1800s. Even though, as discussed earlier, serious crimes became more widespread in the early 1800s, specific crime-related concerns that involved dangerous weapons led to legislative enactments in the late 1700s and early 1800s. For example, from 1780-1809, at least four states (Connecticut, Ohio, New Jersey, Maryland) enacted measures that increased the penalties for burglaries or other crimes if the perpetrators were

armed.¹³⁰ At least three states (New York, Ohio, Maryland) enacted laws to punish the discharge of firearms near populated areas.¹³¹ At least four states (Virginia, Massachusetts, North Carolina, Tennessee) criminalized public arms carrying.¹³² Other examples of restrictions of specific types of weapons are discussed in this section.

¹³⁰ 1783 Conn. Acts 633, An Act For The Punishment of Burglary And Robbery; 1788-1801 Ohio Laws 42, An Act for Suppressing and Prohibiting Every Species of Gaming for Money or Other Property, and for Making Void All Contracts and Payments Made in Furtherance Thereof, ch. 13, § 4. 1788; Charles Nettleton, Laws of the State of New-Jersey Page 474, Image 501 (1821) available at The Making of Modern Law: Primary Sources. 1799 [An Act to Describe, Apprehend and Punish Disorderly Persons (1799)], § 2; The Laws Of Maryland, With The Charter, The Bill Of Rights, The Constitution Of The State, And Its Alterations, The Declaration Of Independence, And The Constitution Of The United States, And Its Amendments Page 465, Image 466 (1811) available at The Making of Modern Law: Primary Sources, 1809.

¹³¹ James Kent, Laws of the State of New-York Page 41-42, Image 44-45 (Vol. 1, 1802-1812) available at The Making of Modern Law: Primary Sources, 1785; An Act of April 22, 1785, An Act to Prevent the Firing of Guns and Other Fire-Arms within this State, on certain days therein mentioned; 1788-1801 Ohio Laws 42, An Act for Suppressing and Prohibiting Every Species of Gaming for Money or Other Property, and for Making Void All Contracts and Payments Made in Furtherance Thereof, ch. 13, § 4. 1788; 1792 Md. Laws 22, A Supplement To An Act Entitled, An Act to Improve and Repair the Streets in Elizabethtown, in Washington County, and For Other Purposes Therein Mentioned, chap. 52, § 4.

¹³² 1786 Va. Laws 33, ch. 21, An Act forbidding and punishing Affrays; 1786 Mass. Sess. Laws An Act to Prevent Routs, Riots, and Tumultuous assemblies, and the Evil Consequences Thereof; Francois Xavier Martin, A Collection of Statutes of the Parliament of England in Force in the State of North Carolina, 60-61 (Newbern 1792); Judge Edward Scott, Laws of the State of Tennessee: Including Those of North Carolina Now in Force in this State: From the Year 1715 to the Year 1820, Inclusive Page 710, Image 714 (Vol. 1, 1821) The Making of Modern Law: Primary Sources. 1801, An Act for the Restraint of Idle and Disorderly Persons § 6.

A. Historical Restrictions on the Bowie Knife and Similar Long-Bladed Knives

64. The Bowie knife is generally credited with having been invented by the brother of adventurer Jim Bowie, Rezin Bowie. The knife was named after Jim Bowie, who reputedly killed one man and wounded another using a “big knife” given to him by his brother in the alternately notorious or celebrated “Sandbar Duel” in 1827.¹³³

65. The “Bowie knife” rapidly became known beginning in the 1830s for the distinctive type of long-bladed and usually single-edged knife with a hand guard identified with Bowie, the man after whom the knife was named. While Bowie knives initially “came in a variety of forms—with or without guards, with differently shaped blades,” they eventually became more standardized as “a large knife with a cross guard and a blade with a clipped point.”¹³⁴ The distinctive traits of the Bowie knife are revealed in Robert Abels’ book, *Bowie Knives*, which

¹³³ “Bowie Knife,” *Encyclopedia of Arkansas*, n.d., <https://encyclopediaofarkansas.net/entries/bowie-knife-2738>; William C. Davis, *Three Roads to the Alamo* (NY: HarperCollins, 1998), 207-8. Davis persuasively dismisses the claim of a blacksmith, James Black, that he invented or styled the distinctive knife for Rezin Bowie (676–77). David Kopel says, erroneously, that “Jim Bowie used a traditional knife at a famous ‘sandbar fight’ on the lower Mississippi River in 1827.” Rezin Bowie had just developed the distinctive knife his brother used in the fight, so it could not have been “traditional.” David Kopel, “Bowie knife statutes 1837-1899,” *The Volokh Conspiracy*, Nov. 20, 2022, <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899>.

¹³⁴ “Bowie Knife,” *Encyclopedia of Arkansas*, n.d., <https://encyclopediaofarkansas.net/entries/bowie-knife-2738>.

includes pictures of nearly one hundred such knives made between 1835 and 1890.¹³⁵ The Bowie legend, the explosive growth and spread of Bowie-related mythology (only magnified by his 1836 death at the Alamo), and the knife's distinctive features, encouraged its proliferation,¹³⁶ referred to by one historian as "the craze for the knives."¹³⁷ As was true of other knives with long, thin blades,¹³⁸ they were widely used in fights and duels, especially at a time when single-shot pistols were often unreliable and inaccurate.¹³⁹ Indeed, such knives were known as "fighting knives"¹⁴⁰ that were "intended for combat."¹⁴¹ In the early nineteenth century "guns and knives accounted for a growing share of the known weapons that whites used to kill whites."¹⁴² In 1834, for example, a grand jury in Jasper County, Georgia deplored

the practice which is common amongst us with the young the middle aged and the aged to arm themselves with Pistols, dirks knives sticks & spears under the specious pretence of protecting themselves against insult, when in

¹³⁵ Robert Abels, *Bowie Knives* (NY: Abels, 1979).

¹³⁶ Virgil E. Baugh, *Rendezvous at the Alamo* (Lincoln, NE: University of Nebraska Press, 1985), 39–63.

¹³⁷ Davis, *Three Roads to the Alamo*, 583.

¹³⁸ Other such long-bladed, thin knives of varying configurations typically named in laws barring their carrying included the Arkansas toothpick, the Spanish stiletto, dirks, daggers, and the like.

¹³⁹ Davis, *Three Roads to the Alamo*, 164, 208; Baugh, *Rendezvous at the Alamo*, 42; Karen Harris, "Bowie Knives: The Old West's Most Famous Blade," *Oldwest*, n.d., <https://www.oldwest.org/bowie-knife-history/>; Norm Flayderman, *The Bowie Knife* (Lincoln, RI: Andrew Mowbray, 2004), 485.

¹⁴⁰ Roth, *American Homicide*, 218.

¹⁴¹ Flayderman, *The Bowie Knife*, 59.

¹⁴² Roth, *American Homicide*, 218.

fact being so armed they frequently insult others with impunity, or if resistance is made the pistol dirk or club is immediately resorted to, hence we so often hear of the stabbing shooting & murdering so many of our citizens.¹⁴³

66. Homicide rates increased in the South in the early nineteenth century, as did laws restricting concealed weapons carrying. Dueling also persisted during this time, even as the practice was widely deplored by religious and other groups, in newspapers, by anti-dueling societies and political leaders.¹⁴⁴ Bowie knife writer Norm Flayderman provides abundant and prolific evidence of the early criminal use of Bowie knives in the 1830s, quoting from dozens of contemporaneous newspaper and other accounts, and providing references to literally hundreds of additional articles and accounts attesting to the widespread use of Bowie knives in fights, duels, brawls and other criminal activities.¹⁴⁵ Flayderman concludes that, as early as 1836, “most of the American public was well aware of the Bowie knife.”¹⁴⁶ (Very much like the allure of contemporary assault weapons to some,¹⁴⁷ the Bowie

¹⁴³ Quoted in Roth, *American Homicide*, 218–19.

¹⁴⁴ Baugh, *Rendezvous at the Alamo*, 51.

¹⁴⁵ Flayderman, *The Bowie Knife*, 25–64; 495–502.

¹⁴⁶ *Ibid.*, 43.

¹⁴⁷ Ryan Busse, *Gunfight* (NY: Public Affairs, 2021), 12–15, 65; David Altheide, “The cycle of fear that drives assault weapon sales,” *The Guardian*, March 2, 2013, <https://www.theguardian.com/commentisfree/2013/mar/02/cycle-fear-assault-weapon-sales>; Rukmani Bhatia, “Guns, Lies, and Fear,” *American Progress*, April 24, 2019, <https://www.americanprogress.org/article/guns-lies-fear>.

knife's notorious reputation also, if perversely, fanned its sale and acquisition.¹⁴⁸)

All this contributed to widespread enactment of laws prohibiting dueling in the states.¹⁴⁹ In 1839, Congress passed a measure barring dueling in the District of Columbia.¹⁵⁰ Both pistols and knives were prominently used in such affairs.¹⁵¹

67. At least four state court cases dealt in some manner with fighting knives like the Bowie knife. In the 1840 case of *Aymette v. State*¹⁵² the Supreme Court of Tennessee upheld the conviction of William Aymette for wearing a Bowie knife concealed under his clothes under a state law of 1837–1838, ch. 137, sec. 2, providing “that, if any person shall wear any bowie-knife, or Arkansas toothpick, or other knife or weapon that shall in form, shape, or size resemble a bowie-knife or Arkansas toothpick, under his clothes, or keep the same concealed about his person such person shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than two hundred dollars, and shall be imprisoned in the county jail not less than three months and not more than six months.”¹⁵³ In its decision, the court concluded that the prohibition against wearing the named

¹⁴⁸ Flayderman, *The Bowie Knife*, 46.

¹⁴⁹ A search for the word “duel” in the Duke Center for Firearms Law database of old gun laws yields 35 results. See <https://firearmslaw.duke.edu/repository/search-the-repository>.

¹⁵⁰ H.R. 8, Joint Resolution Prohibiting Dueling, introduced March 5, 1838, https://history.house.gov/Records-and-Research/Listing/lfp_032.

¹⁵¹ Roth, *American Homicide*, 180–83, 210–17.

¹⁵² Cited in *District of Columbia v. Heller*, 554 U.S. 570 (2008).

¹⁵³ *Aymette v. State*, 21 Tenn. 152, 153 (Tenn. 1840).

weapons was well justified in that they “are usually employed in private broils, and which are efficient only in the hands of the robber and the assassin.”¹⁵⁴ The court continued, “The Legislature, therefore, have a right to prohibit the wearing or keeping weapons dangerous to the peace and safety of the citizens. . . .”¹⁵⁵ Further, the court added that the state law existed “to preserve the public peace, and protect our citizens from the terror which a wanton and unusual exhibition of arms might produce, or their lives from being endangered by desperadoes with concealed arms. . . .”¹⁵⁶

68. Four years later, the Tennessee Supreme Court again dealt with a Bowie knife law violation and challenge. In the case of *Haynes v. Tennessee* (1844),¹⁵⁷ Stephen Haynes was indicted for carrying a concealed Bowie knife. He was convicted of wearing a knife that resembled a Bowie knife but appealed his conviction on the grounds that he was actually carrying a “Mexican pirate knife,” which reputedly had a shorter, narrower blade. (At the trial, witnesses disagreed as to the proper name for the knife in question.) He also argued that the state law, in listing various types of knives including those “similar” to Bowie knives, was “too indefinite” and could therefore lead to “absurd consequences” that “must follow its

¹⁵⁴ *Ibid.*, 156.

¹⁵⁵ *Ibid.*, 157.

¹⁵⁶ *Ibid.*

¹⁵⁷ *Haynes v. Tennessee*, 24 Tenn. 120 (1844).

enforcement. . . .”¹⁵⁸ On appeal, the court upheld his conviction and commended the Tennessee state legislature’s enactment: “The design of the statute was to prohibit the wearing of bowie knives and others of a similar description, which the experience of the country had proven to be extremely dangerous and destructive to human life; the carrying of which by truculent and evil disposed persons but too often ended in assassination.”¹⁵⁹ The court continued: “The design, meaning, and intent was to guard against the destruction of human life, by prohibiting the wearing [of] heavy, dangerous, destructive knives, the only use of which is to kill. . . .”¹⁶⁰ The court noted that the state law “wisely provides against bowie knives, Arkansas tooth picks, or any other weapon in form, shape or size, resembling them.”¹⁶¹ Noting the similarity among knives and the possibility of an unjust outcome where, say, a person might be convicted of carrying a mere pocket knife, the court posed this question: “what is to protect against conviction, when the words of the statute cover the charge, and its true spirit and meaning does not?” Their answer: “the judge and jury who try the case.”¹⁶² As the author of a book on Bowie knives noted,

¹⁵⁸ *Haynes v. Tennessee*, 122.

¹⁵⁹ *Haynes v. Tennessee*, 122.

¹⁶⁰ *Haynes v. Tennessee*, 123.

¹⁶¹ *Haynes v. Tennessee*, 122.

¹⁶² *Haynes v. Tennessee*, 123.

“the fact that the term ‘bowie knife’ had never been precisely defined did not help his [Haynes’s] case.”¹⁶³

69. Two other state court cases are arguably relevant to the legal status of Bowie knives, *Nunn v. State* (1846)¹⁶⁴ and *Cockrum v. State* (1859).¹⁶⁵ *Nunn*, however, involved a man who was prosecuted for carrying a pistol (apparently openly, not concealed), not a knife. A vagary in the state law criminalized concealed carry of various named weapons, including pistols and Bowie knives, whereas a different provision allowed for open carrying of named weapons, including Bowie knives, but failed to include pistols on that list. Noting the “great vagueness” in the statute’s wording, the court reversed the man’s conviction and affirmed the constitutionality of open carry “for the important end to be attained: the rearing up and qualifying a well-regulated militia, so vitally necessary to the security of a free State.” The court also upheld the constitutionality of the concealed carry restrictions. It did not single out or offer any specific comment on Bowie knives, beyond noting in passing that the Georgia law in question was enacted “to guard and protect the citizens of the State against the unwarrantable and too prevalent use of *deadly weapons*.”¹⁶⁶

¹⁶³ Paul Kirchner, *Bowie Knife Fights, Fighters, and Fighting Techniques* (Boulder, CO: Paladin Press, 2010), 43.

¹⁶⁴ *Nunn v. State*, 1 Ga. 243 (1846) .

¹⁶⁵ *Cockrum v. State*, 24 Tex. 394 (1859).

¹⁶⁶ *Nunn v. State*, 246. Italics in original.

70. The *Cockrum* case involved John Cockrum, who was charged with the murder of his brother-in-law, William Self, with a Bowie knife.¹⁶⁷ Under Texas law, “a homicide, which would otherwise be a case of manslaughter, if committed with a bowie-knife or dagger, shall be deemed murder and punished as such. . . .”¹⁶⁸ The court upheld the added penalty provision of the law relating to use of a Bowie knife, despite the court’s very expansive interpretation of the right to bear arms, but reversed and remanded the man’s conviction because of an error related to statutory changes and jury instructions. It described Bowie knives as “an exceeding destructive weapon,” an “instrument of almost certain death,” and “the most deadly of all weapons in common use.”¹⁶⁹ Further, the court said: “He who carries such a weapon. . . makes himself more dangerous to the rights of others, considering the frailties of human nature, than if he carried a less dangerous weapon.”¹⁷⁰

71. All of these cases underscore the courts’ recognition of the dangerous nature and nefarious use of Bowie knives not only by their characterizations of them, but by the fact that they are treated in the same restrictive and prohibitory

¹⁶⁷ <https://www.genealogy.com/ftm/p/i/l/Karen-Pilgrim-TX/WEBSITE-0001/UHP-0254.html>.

¹⁶⁸ *Cockrum v. State*, 394.

¹⁶⁹ *Cockrum v. State*, 403–04. Kopel says, incorrectly, that “Bowie knives. . . were regulated the same as a butcher's knife.” According to the Duke Center for Firearms Law Repository of Historical Gun Laws (<https://firearmslaw.duke.edu/repository/search-the-repository/>) six states had laws that restricted butcher knives by name, whereas 42 states restricted Bowie knives by name. See Exhibits C and E. Kopel, “Bowie knife statutes 1837-1899.”

¹⁷⁰ *Cockrum v. State*, 403.

manner in law as other dangerous, deadly weapons including pistols and various named clubs.¹⁷¹

72. The ubiquity of the concern about the criminological consequences of carrying Bowie knives and other, similar long-bladed knives is seen in the widespread adoption of laws barring or restricting these weapons.¹⁷² In the 1830s, at least six states enacted laws barring the carrying of Bowie knives by name.¹⁷³ From then to the start of the twentieth century, every state plus the District of Columbia (with the sole exception of New Hampshire) restricted Bowie knives: a

¹⁷¹ Among the notorious incidents attached to the Bowie knife was its use by two of the conspirators in the Lincoln assassination in 1865. The plan was to assassinate President Lincoln, Vice President Andrew Johnson, and Secretary of State William Seward. The man assigned to attack Seward, Lewis Powell, entered the Seward home armed with a pistol and a Bowie knife. When one of Seward's sons tried to stop him, Powell tried to shoot him, but his gun misfired, so he used it as a club against the son. When he encountered another son, Powell slashed him with his Bowie knife, the weapon he then used to attack Seward who, thanks to a neck collar, survived. David Morgan, "Lincoln assassination: The other murder attempt," *CBS News*, May 10, 2015, <https://www.cbsnews.com/news/lincoln-assassination-the-other-murder-attempt/>; <https://www.history.com/topics/american-civil-war/william-seward>. John Wilkes Booth also carried what was later identified as a Bowie knife which he used to slash the man who accompanied Lincoln to the theater and who tried to stop Booth after he shot the president. Booth slashed the man in the arm with his knife to make his escape.

<https://lincolnconspirators.com/2018/12/31/cloak-and-daggers-cutting-through-the-confusion-of-the-assassination-knives/>

¹⁷² The near-immediate effort in the states to restrict Bowie knives was noted, for example, in Davis, *Three Roads to the Alamo*, 582, and in Flayderman, *The Bowie Knife*, 53–54.

¹⁷³ A seventh state, Massachusetts, criminalized the carrying of fighting knives using labels that would have included the Bowie knife in an 1836 law. See Exhibit H.

total of at least 42 states (including the District of Columbia) barred or restricted Bowie knives by name; and another 8 states enacted laws barring the category or type of knife embodied by the Bowie knife but without mentioning them by name (see Exhibits C, E, and H) totaling 49 states plus the District of Columbia.¹⁷⁴

Several states banned the possession of Bowie knives outright, and others imposed taxes on the ability for individuals to acquire or possess them (see Exhibit H). The desirability and utility of concealed-carry restrictions were precisely that they pushed dangerous weapons out of public spaces and places, improving public safety through the deterrent and punishment effects of such laws, and also discouraging the settlement of private grievances and disputes in public through weapons-fueled violence.

73. States relied on a variety of regulatory techniques to suppress Bowie knife carrying: 29 states enacted laws to bar their concealed carry; 15 states barred their carry whether concealed or openly; 7 states enacted enhanced criminal penalties for those who used the knives to commit a crime; 4 states enacted regulatory taxes attached to their commercial sale; 3 states imposed a tax for those who owned the knives; 10 states barred their sale to specified groups of people; and 4 states enacted penalties for brandishing the knives (see Exhibit H).

¹⁷⁴ Bowie law enactment by decade: 1830s: 6 states; 1840s: 4 states; 1850s: 11 states; 1860s: 13 states; 1870s: 19 states; 1880s: 20 states; 1890s: 21 states; 1900s: 13 states. See Exhibits C and E.

74. The extensive and ubiquitous nature of these Bowie knife prohibitions raises a further question: given the universal agreement that these knives were dangerous, why not simply ban their possession outright? The answer is two-fold. First, America was a developing nation-state in the nineteenth century. The federal and state governments did not yet possess the maturity, powers, tools, or resources to enact, much less implement, any measure as sweeping as a knife ban, especially since knives are technologically very simple to produce. After all, the front-line administrative entity on which we today rely for law enforcement, the police, barely existed (in the way we think of policing today) in the early nineteenth century (up to this time policing fell to a haphazard mix of the watch system, constables, militias, and vigilantes). Modern police forces only came in to being in a handful of large cities before the Civil War.¹⁷⁵ Second, the chief remedy enacted by the states to address the problem of knife fighting was far more focused and feasible: to bar the carrying of knives, along with the other two categories of weapons that also threatened public safety, clubs and pistols. The fact that all three types of weapons were consistently treated together is conclusive evidence that all

¹⁷⁵ Chris McNab, *Deadly Force* (Oxford, Great Britain: Osprey Publishing, 2009), 13-24. Boston created a police force in 1838, New York City created a standing police force in 1845, followed by Chicago in 1851, Philadelphia in 1854, and Baltimore in 1857 (23). Jill Lepore, “The Invention of the Police,” *The New Yorker*, July 13, 2020, <https://www.newyorker.com/magazine/2020/07/20/the-invention-of-the-police>. Both McNab and Lepore emphasize the role of slavery and slave suppression as key to the development of policing.

were considered so dangerous and inimical to public safety that subject to anti-carry laws and bundled together in legislative enactments.

B. Historical Restrictions on Clubs and Other Blunt Weapons

75. Among the most widely and ubiquitously regulated harmful implements in U.S. history were various types of clubs and other blunt weapons. (See Exhibits C and E.) Most were anti-carry laws, which also generally encompassed pistols and specific types of knives, although some of the laws extended prohibitions to these weapons' manufacture, possession, sale, or use in crime.¹⁷⁶ As the table in Exhibit C shows, at least six distinct types of clubs and blunt objects were regulated in the United States. Notably, every state in the nation had laws restricting one or more types of clubs. According to a detailed reference book on the subject of these blunt instruments by Robert Escobar, they were considered "objectionable objects, once feared but now forgotten."¹⁷⁷ Escobar provides what he calls "a family history" of these blunt weapons, but adding that "[i]t's a disreputable family to say the least, black sheep even within the study of weaponry."¹⁷⁸ They have been described as "wicked, cowardly, 'Soaked in blood and cured in whiskey.'"¹⁷⁹ Those who carried them (excluding police) "were called

¹⁷⁶ E.g. see 1917 Cal. Sess. Laws 221-225; 1923 Cal. Stat. 695.

¹⁷⁷ Robert Escobar, *Saps, Blackjacks and Slungshots: A History of Forgotten Weapons* (Columbus, OH: Gatekeeper Press, 2018), 1.

¹⁷⁸ Escobar, *Saps, Blackjacks and Slungshots*, 2.

¹⁷⁹ Escobar, *Saps, Blackjacks and Slungshots*, 2.

vicious, devils and lurking highwaymen.”¹⁸⁰ These club-type blunt objects compose a family of objects used for striking others, and while they vary in name and construction, the categories are “somewhat fluid.”¹⁸¹

76. Among the six types of clubs regulated in U.S. laws, 15 states barred bludgeon carrying. A bludgeon is a short stick with a thickened or weighted end used as a weapon.¹⁸² The earliest state anti-bludgeon law was in 1799; 12 such state laws were enacted in the 1700s and 1800s, and 4 in the early 1900s (as with each of these chronological categories, the state law total exceeds the total number of states because some states enacted the same or similar laws in multiple centuries).

77. A billy (sometimes spelled billie) club is a heavy, hand-held rigid club,¹⁸³ usually made of wood, plastic, or metal,¹⁸⁴ that is traditionally carried by police, often called a nightstick or baton.¹⁸⁵ Escobar cites an early reference to the billy club in an 1854 New Orleans newspaper article in the *Daily True Delta* that

¹⁸⁰ Escobar, *Saps, Blackjacks and Slungshots*, 2.

¹⁸¹ Escobar, *Saps, Blackjacks and Slungshots*, 1.

¹⁸² <https://www.merriam-webster.com/dictionary/bludgeon>.

¹⁸³ Some versions were made to have some flexibility to increase their striking power. See Escobar, *Saps, Blackjacks and Slungshots*, 118-19.

¹⁸⁴ <https://www.merriam-webster.com/dictionary/billy%20club>. Escobar discusses a Civil War veteran and later police officer, Edward D. Bean, who experimented with various types of billy clubs to improve their striking power and durability by utilizing leather, often adhered to wood, to reduce the likelihood that the club would break on use. *Saps, Blackjacks and Slungshots*, 118. One of the earliest references to a “billy” was an 1857 newspaper article describing “an indiscriminate attack with slung-shot, billies, clubs, &c.” “Local Intelligence,” *Delaware Republican*, June 15, 1857, <https://bit.ly/3V9nVO7>.

¹⁸⁵ Escobar, *Saps, Blackjacks and Slungshots*, 2, 69-70, 105, 113-30.

referred to “police armed with batons,”¹⁸⁶ a synonym for a billy club. As this reference suggests, police have long adopted the billy club, or similar striking implements, as part of their on-duty weaponry. At least 16 states had anti-billy club laws, totaling 46 laws; the earliest law appears to have been enacted in Kansas in 1862,¹⁸⁷ followed by a New York law in 1866.¹⁸⁸ Fourteen states enacted such laws in the 1800s; 11 states did so in the early 1900s.

78. At least 14 states barred the carrying of “clubs” more generically, without specifying the type. The oldest anti-club law was 1664; 7 states enacted these laws in the 1600s-1700s, 7 states in the 1800s, and 2 in the early 1900s.

79. Anti-slungshot laws were enacted by 43 states, with 71 laws enacted in the 1800s and 12 in the 1900s. A slungshot (or slung shot), also referred to as “a type of blackjack,”¹⁸⁹ is a hand-held weapon for striking that has a piece of metal or stone at one end attached to a flexible strap or handle that was developed roughly in

¹⁸⁶ Escobar, *Saps, Blackjacks and Slungshots*, 105.

¹⁸⁷ C. B. Pierce, *Charter and Ordinances of the City of Leavenworth, with an Appendix* Page 45, Image 45 (1863) available at *The Making of Modern Law: Primary Sources*, 1862.

¹⁸⁸ Montgomery Hunt Throop, *The Revised Statutes of the State of New York; As Altered by Subsequent Legislation; Together with the Other Statutory Provisions of a General and Permanent Nature Now in Force, Passed from the Year 1778 to the Close of the Session of the Legislature of 1881, Arranged in Connection with the Same or kindred Subjects in the Revised Statutes; To Which are Added References to Judicial Decisions upon the Provisions Contained in the Text, Explanatory Notes, and a Full and Complete Index* Page 2512, Image 677 (Vol. 3, 1882) available at *The Making of Modern Law: Primary Sources*, 1866.

¹⁸⁹ Escobar, *Saps, Blackjacks and Slungshots*, 228.

the 1840s (the first “known use” of slungshot was 1842¹⁹⁰). By one account, “[s]lungshots were widely used by criminals and street gang members in the 19th Century. They had the advantage of being easy to make, silent, and very effective, particularly against an unsuspecting opponent. This gave them a dubious reputation, similar to that carried by switchblade knives in the 1950s, and they were outlawed in many jurisdictions. The use as a criminal weapon continued at least up until the early 1920s.”¹⁹¹ Escobar concurs that slungshots and blackjacks “were a regular part of criminal weaponry. . .and gangsters could be merciless in their use.”¹⁹²

80. In a criminal case considered the most famous of those involving lawyer Abraham Lincoln, the future president defended a man charged with murdering another using a slung shot. In the 1858 trial of William “Duff” Armstrong, Lincoln succeeded in winning Armstrong’s acquittal.¹⁹³

81. These weapons were viewed as especially dangerous or harmful when they emerged in society, given the ubiquity of state laws against carrying them

¹⁹⁰ See <https://www.merriam-webster.com/dictionary/slungshot> Escobar agrees with this rough date. See *Saps, Blackjacks and Slungshots*, 67.

¹⁹¹ “Slungshot,” <https://military-history.fandom.com/wiki/Slungshot>.

¹⁹² Escobar, *Saps, Blackjacks and Slungshots*, 86.

¹⁹³ Lincoln was able to discredit the testimony of a witness who claimed to see Armstrong strike the victim with a slung shot at night because of the full moon. Lincoln used as evidence an Almanac to prove that on the night in question, there was no full moon. Judson Hale, “When Lincoln Famously Used the Almanac,” *Almanac*, May 4, 2022, <https://www.almanac.com/abraham-lincoln-almanac-and-murder-trial>.

enacted after their invention and their spreading use by criminals and as fighting implements. These devices were invented and appeared in society during an identifiable period of time in the mid-nineteenth century, sparking subsequent wide-ranging prohibitions. The earliest anti-slungshot law was enacted in 1850; 43 states legislated against them in the 1800s (including the District of Columbia), and 11 states in the early 1900s (note this incorporates multiple laws enacted in more than one century by a few states).

82. Sandbags, also known as sand clubs, were also a specific focus in anti-carry laws as well. Consisting of nothing more than sand poured into a bag, sack, sock, or similar tube-shaped fabric (although the weight could also be something dense and heavy, like a lock in the end of a sock),¹⁹⁴ their particular appeal was that they could be dispensed with by simply pouring the sand out, leaving nothing more than an empty cloth bag. (Alternately, they could be made heavier by adding water to the sand.) The first anti-sandbag law was 1866, with 10 states enacting such laws—7 in the 1800s and 7 in the early 1900s. Only 4 states did not have any prohibitions in any of these six categories, but 3 of those 4 (Montana, Ohio, and Washington State) had blanket legislative provisions against the carrying of any concealed/dangerous/deadly weapons. One state, New Hampshire, may not have

¹⁹⁴ <https://www.ferrislawnv.com/criminal-defense/weapons-offenses/dangerous-weapons/>; Escobar, *Saps, Blackjacks and Slungshots*, 20-22. Escobar dates the earliest reference to sandbags as weapons to the 1600s (22).

enacted such a law during this time but did at some point.¹⁹⁵

C. Historical Restrictions on Pistol and Gun Carrying

83. Carry restriction laws were widely enacted from the 1600s through the start of the twentieth century, spanning over three centuries. As early as 1686, New Jersey enacted a law against wearing weapons because they induced “great Fear and Quarrels.” Massachusetts followed in 1751. In the late 1700s, North Carolina and Virginia passed similar laws. In the 1800s, as interpersonal violence and gun carrying spread, forty-three states joined the list; three more did so in the early 1900s (see Exhibit B).¹⁹⁶ The enactment of laws restricting concealed weapons carrying followed the rise of homicides and interpersonal violence described by historian Randolph Roth who notes that “firearms restrictions on colonists from the end of the seventeenth century to the eve of the Revolution” were few because “homicide rates were low among colonists and firearms were seldom used in homicides among colonists when they did occur.”¹⁹⁷ Thereafter, many states

¹⁹⁵ Up to 2010, New Hampshire had this law on the books: “159:16 Carrying or Selling Weapons. Whoever, except as provided by the laws of this state, sells, has in his possession with intent to sell, or carries on his person any stiletto, switch knife, blackjack, dagger, dirk-knife, slung shot, or metallic knuckles shall be guilty of a misdemeanor; and such weapon or articles so carried by him shall be confiscated to the use of the state.” In 2010, the law was amended when it enacted HB 1665 to exclude stilettos, switch knives, daggers, and dirk-knives. Compare N.H. Rev. Stat. § 159:16 with 2010 New Hampshire Laws Ch. 67 (H.B. 1665).

¹⁹⁶ Spitzer, “Gun Law History in the United States and Second Amendment Rights,” 63-67.

¹⁹⁷ Declaration of Randolph Roth, *Ocean State Tactical v. Rhode Island*, Case 1:22-

enacted “laws restricting the use or ownership of concealable weapons in slave and frontier states, where homicide rates among persons of European ancestry soared after the Revolution in large part because of the increased manufacture and ownership of concealable percussion cap pistols and fighting knives.”¹⁹⁸ Concealed carry laws normally targeted pistols as well as the types of fighting knives and various types of clubs discussed here (see Exhibit E for text of such laws). In addition, at least three-fourths of the states enacted laws that penalized public weapons brandishing or display. At least four states did so in the 1600s, two in the 1700s, twenty-eight states in the 1800s, and two more in the early 1900s.¹⁹⁹ As of 1938, “the carrying of concealed pistols is either prohibited absolutely or permitted only with a license in every state but two.”²⁰⁰

D. Historical Restrictions on Trap Guns

84. Not to be confused with firearms used in trapshooting, trap guns were devices or contraptions rigged in such a way as to fire when the owner need not be present. Typically, trap guns could be set to fire remotely (without the user being present to operate the firearm) by rigging the firearm to be fired with a string or

cv-00246-JJM-PAS, Filed 10/14/22, 2. Roth is the author of *American Homicide*.

¹⁹⁸ Declaration of Randolph Roth, 2.

¹⁹⁹ Spitzer, *The Gun Dilemma*, 77-80.

²⁰⁰ Sam B. Warner, “The Uniform Pistol Act,” *Journal of Criminal Law and Criminology* 29 (Winter 1938): 530.

wire which then discharged when tripped.²⁰¹ This early law from New Jersey in 1771 both defines and summarizes the problem addressed by this law:

Whereas a most dangerous Method of setting Guns has too much prevailed in this Province, Be it Enacted by the Authority aforesaid, That if any Person or Persons within this Colony shall presume to set any loaded Gun in such Manner as that the same shall be intended to go off or discharge itself, or be discharged by any String, Rope, or other Contrivance, such Person or Persons shall forfeit and pay the Sum of Six Pounds; and on Non-payment thereof shall be committed to the common Gaol of the County for Six Months.²⁰²

85. Also sometimes referred to as “infernial machines,”²⁰³ the term trap gun came to encompass other kinds of traps designed to harm or kill those who might encounter them, including for purposes of defending property from intruders.

Unlike the other weapons restrictions examined here, opinion was more divided on the relative merits or wisdom of setting such devices, with some arguing that thieves or criminals hurt or killed by the devices had it coming,²⁰⁴ though the weight of opinion seemed mostly against such devices because of the likelihood that innocent

²⁰¹ See Spitzer, “Gun Law History in the United States and Second Amendment Rights,” 67.

²⁰² 1763-1775 N.J. Laws 346, An Act for the Preservation of Deer and Other Game, and to Prevent Trespassing with Guns, ch. 539, § 10.

²⁰³ E.g. 1901 Utah Laws 97-98, An Act Defining an Infernal Machine, and Prescribing Penalties for the Construction or Contrivance of the Same, or Having Such Machine in Possession, or Delivering Such Machine to Any Person . . . , ch. 96, §§ 1-3.

²⁰⁴ For example, this small item appeared in the Bangor (Maine) Daily Whig on October 27, 1870: “A burglar while attempting to break into a shop in New York, Monday night, had the top of his head blown off by a trap-gun so placed that it would be discharged by any one tampering with the window. A few such ‘accidents’ are needed to teach the thieves who have lately been operating in this city, a lesson.”

persons could be injured or killed, and also because such devices represented an arbitrary and excessive meting out of private, vigilante-type “justice.”²⁰⁵ Those who set gun traps typically did so to defend their places of business, properties, or possessions. This 1870 newspaper account from an incident in New York City provides an example where a burglar was killed by a gun-trap set by a shopkeeper, who was then prosecuted: “As there is a statute against the use of such infernal machines, which might cause loss of life to some innocent person, the jury censured Agostino.” After the verdict the man continued to be held under \$2,000 bail.²⁰⁶

86. Inevitably, however, the traps wound up hurting or killing innocents, even including the person who set the trap. For example, this 1891 newspaper account from Chillicothe, Missouri illustrated the problem: “George Dowell, a young farmer, was fined \$50 under an old law for setting a trap-gun. Dowell set the gun in his corn-crib to catch a thief, but his wife was the first person to visit the crib and on opening the door was shot dead.”²⁰⁷

87. In all, at least 16 states had anti-trap gun laws (see Exhibits B and F). The earliest such law encountered was the 1771 New Jersey law (above). Nine laws

²⁰⁵ This is my observation based on my reading of historic newspaper accounts from the late 1800s, and from the number of anti-trap gun laws enacted. As policing became more consistent, professional, and reliable, support for vigilante-type actions like setting trap guns seems to have declined.

²⁰⁶ . “The Man Trap,” *The Buffalo Commercial*, November 1, 1870; from the *N.Y. Standard*, October 29, 1870, <https://bit.ly/3yUSGNF>. See Exhibit G.

²⁰⁷ “Shot by a Trap-Gun,” *South Bend Tribune*, February 11, 1891, <https://bit.ly/3CtZsfk>. See Exhibit G.

were enacted in the 1700s-1800s, and 9 in the early 1900s (counting states that enacted multiple laws across the centuries).

E. Recent Developments

88. A profound change in firepower occurred in the U.S. in the 1980s, when semi-automatic handguns, and a new generation of more expensive and more deadly guns, entered the criminal market.²⁰⁸ According to criminologists Alfred Blumstein and Richard Rosenfeld, writing in the 1990s about the period from 1985-1993 and the dramatic rise in gun crime and homicides during that period, “[o]ver the last decade the weapons involved in settling juveniles' disputes have changed dramatically from fists or knives to handguns, with their much greater lethality.”²⁰⁹ More specifically, Blumstein attributed this deadly crime spike in the 1980s to “the advent of crack cocaine, semiautomatic handguns and gangs” which “sparked the surge in killings by teen-agers.”²¹⁰ Blumstein noted that “[b]eginning in 1985, there was steady growth

²⁰⁸ The prevailing crime handguns of the 1970s and early 1980s were so-called “Saturday night specials,” cheap, smaller caliber, short-barreled, easily concealable revolvers that accounted for much gun crime. “Hot Guns,” *Frontline*, PBS, aired June 3, 1997,

<https://www.pbs.org/wgbh/pages/frontline/shows/guns/etc/script.html>; see also Interview with Garen Wintemute, “Hot Guns,” PBS, <https://www.pbs.org/wgbh/pages/frontline/shows/guns/interviews/wintemute.html>.

²⁰⁹ Alfred Blumstein and Richard Rosenfeld, “Explaining Recent Trends in U.S. Homicide Rates,” *Journal of Criminal Law and Criminology* 4 (Summer 1998): 1191,

<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=6976&context=jclc>

²¹⁰ Fox Butterfield, “Guns Blamed for Rise in Homicides by Youths in 80's,” *New*

in the use of guns by juveniles in committing murder, leading to a doubling in the number of juvenile murders committed with guns, with no shift in the number of non-gun homicides.”²¹¹ The perpetrators “are less likely to exercise the restraint necessary to handle dangerous weapons, particularly rapid-fire assault weapons.”²¹²

89. This shift to greater firepower is consistent with the fact that “from 1973 to 1993, the types of handguns most frequently produced” were “pistols rather than revolvers. Pistol production grew from 28% of the handguns produced in the United States in 1973 to 80% in 1993.”²¹³ Pistols “generally contain cartridges in a magazine located in the grip of the gun. When the semiautomatic pistol is fired, the spent cartridge that contained the bullet and propellant is ejected, the firing mechanism is cocked, and a new cartridge is chambered”²¹⁴ whereas a revolver is defined as a “handgun that contains its ammunition in a revolving cylinder that typically holds five to nine cartridges. . . .”²¹⁵

90. In testimony before Congress on what became the assault weapons ban of 1994, law enforcement representatives discussed the rise in criminal firepower

York Times, December 10, 1998, <https://www.nytimes.com/1998/12/10/us/guns-blamed-for-rise-in-homicides-by-youths-in-80-s.html>.

²¹¹ Alfred Blumstein, “Violence by Young People: Why the Deadly Nexus?” *National Institute of Justice Journal*, August 1995, 5, https://www.ojp.gov/pdffiles/nijj_229.pdf.

²¹² Blumstein, “Violence by Young People,” 5.

²¹³ Marianne W. Zawitz, “Guns Used in Crime,” *Bureau of Justice Statistics*, July 1995, 3, <https://bjs.ojp.gov/content/pub/pdf/GUIC.PDF>.

²¹⁴ Zawitz, “Guns Used in Crime,” 2.

²¹⁵ Zawitz, “Guns Used in Crime,” 2.

they witnessed in the 1980s. For example, the executive vice president of the National Association of Police Organizations, Tony Loizzo, offered this testimony:

In the past, we used to face criminals armed with a cheap Saturday Night Special that could fire off six rounds before loading. Now it is not at all unusual for a cop to look down the barrel of a TEC-9 with a 32 round clip. The ready availability of and easy access to assault weapons by criminals has increased. . . dramatically. . . . The six-shot .38 caliber service revolver, standard law enforcement issue for years, it just no match against a criminal armed with a semi-automatic assault weapon.²¹⁶

91. John Pitta, executive vice president of the Federal Law Enforcement Officers Association testified similarly with respect to the 1994 bill: “[t]he TEC-9 assault pistol is the undisputed favorite of drug traffickers, gang members and violent criminals. Cities across the country confiscate more TEC-9s than any other assault pistol.”²¹⁷ The ultimate result was congressional enactment of a ten year restriction on assault weapons and also on ammunition magazines capable of holding more than ten rounds.²¹⁸

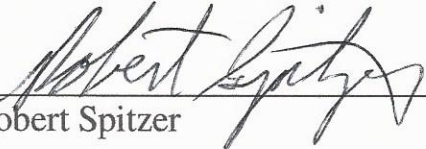
²¹⁶ H.R. REP. 103-489, H.R. Rep. No. 489, 103RD Cong., 2ND Sess. 1994, 1994 WL 168883, 1994 U.S.C.C.A.N. 1820 (Leg.Hist.), Violent Crime Control and Law Enforcement Act Of 1994, 32.

²¹⁷ H.R. REP. 103-489, H.R. Rep. No. 489, 32.

²¹⁸ Spitzer, *The Politics of Gun Control*, 205-11.

I declare that the foregoing is true and correct, to the best of my knowledge.

Executed on February 15, 2023, at Williamsburg, Virginia


Robert Spitzer

October 2022

Curriculum Vitae

Robert J. Spitzer

**Distinguished Service Professor, Emeritus
SUNY Cortland**

Address: 5333 Center St.
Alexandria, VA 23188
(607) 423-1781
Robert.spitzer@cortland.edu; robertjspitzer53@gmail.com
<https://sites.google.com/site/robertspitzercortland/>

Education: A.B. (Political Science), summa cum laude, SUNY College at Fredonia, 1975.
M.A. Cornell University, 1978.
Ph.D. Cornell University, 1980.

Positions Held:

Department Chair, SUNY Cortland, 2008-2020.
Interim Department Chair, SUNY Cortland, 2004-2005.
Distinguished Service Professor, SUNY Cortland, 1997-2021.
Visiting Professor, Cornell University, Spring, 2009, Spring 1993; Summers 1980, 1988-1990, 1992-2017.
Professor, SUNY Cortland, 1989 to 1997.
Continuing Appointment, SUNY Cortland, 1986.
Associate Professor, SUNY Cortland, 1984 to 1989.
Department Chair, SUNY Cortland, 1983 to 1989.
Visiting Professor, SUNY College of Technology, Utica-Rome, Graduate Division, 1985, 1986, 1988.
Copy Editor, Administrative Science Quarterly, 1982 to 1983.
Adjunct Professor, Tompkins-Cortland Community College, 1982-83.
Assistant Professor, SUNY Cortland, 1979 to 1984.
Instructor, Cornell University, 1979.
Instructor, Eisenhower College, 1978-1979.
Research Assistant, Theodore J. Lowi and Benjamin Ginsberg, 1976-1978.
Reporter (Stringer), Buffalo Courier-Express; Dunkirk Evening Observer, 1974-75.

Honors:

Fellow, the Royal Society for Arts, Manufactures and Commerce (RSA), London, England, 2020.

Founding member, Regional Gun Violence Research Consortium, coordinated with the Rockefeller Institute of Government. Consortium of gun policy experts from eight states to advance research on gun policy, 2018-present.

Member, SUNY Research Council, an advisory council to the SUNY Board of Trustees, SUNY System Administration, campus leadership teams, and the leadership team of the Research Foundation (RF) for SUNY, 2018-2021.

Member, Scholars Strategy Network, 2015-present. Created to improve public policy and strengthen democracy by connecting scholars and their research to policymakers, citizens associations, and the media.

Winner, Pi Sigma Alpha (the national political science honors society) Chapter Advisor of the Year Award for 2013.

Winner, Outstanding Achievement in Research Award, SUNY Cortland, 2010.

Winner, Outstanding Achievement in Research Award, SUNY Cortland, 2005.

Winner, State University of New York's Chancellor's Excellence in Scholarship and Creative Activities Award, 2003.

SUNY Cortland Nominee, National Scholar Competition of the Honor Society of Phi Kappa Phi, 1994-95.

Winner, New York State/United University Professions Excellence Award, 1991, for "outstanding professional performance and superior service."

Member, New York State Commission on the Bicentennial of the U.S. Constitution, 1986-1990.

Member, New York State Ratification Celebration Committee for U.S. Constitution Bicentennial, 1987-88.

Member, National Bicentennial Competition on the Constitution and the Bill of Rights, 1987-1991.

Who's Who in the World, 1996.

Dictionary of International Biography, 1995.

Who's Who in the East, 1995-96; 1997-98

Ex officio member, Cortland County Bicentennial Committee, 1987-89.

Chair, SUNY Cortland Bicentennial Committee, 1987-89.

Phi Eta Sigma, SUNY Cortland, 1994.

Phi Kappa Phi, SUNY Cortland, 1990.

Men of Achievement (1986)

Contemporary Authors, vol. 112 (1985) and subsequent updates.

International Authors and Writers Who's Who, 1985-present.

International Who's Who in Education, Winter 1985-86.

Herbert H. Lehman Graduate Fellowship, 1975-79.

Who's Who Among Students in American Universities and Colleges, 1974-75.

Phi Beta Kappa Club, SUNY College at Fredonia, 1975.

Phi Alpha Theta (History), SUNY College at Fredonia, 1974.

Phi Mu Alpha Sinfonia, (Music), SUNY College at Fredonia, 1973.

Research Fellowships and Projects:

Individual Development Awards, SUNY Cortland, 2001, 2003, 2005, 2006, 2007, 2008, 2009, 2014, 2017, 2020.

Title "F" Leave with pay, Spring 1994.

Professional Development and Quality of Working Life Award, 1989, 1993, 1998, 1999.
National Endowment for the Humanities (NEH) Research Grant for Study of the Constitution, 1986. Project Proposal: "The Presidential Veto: Constitutional Antecedents and Modern Applications."

SUNY Cortland Faculty Research Program Grant, "The Presidential Veto, 1986.

Consultant for Reporting Research Corporation, "Quality of Earnings Report," Thornton L. O'Glove, author; research on presidential veto use, 1984-1987.

SUNY University Awards Program Research Fellowship, "The Right to Life Party and New York State Politics, 1983.

SUNY Cortland Faculty Research Program Fellowship, "New York State Parties and Politics," 1980.

Publications and Papers:

Books:

The Presidency and Public Policy: The Four Arenas of Presidential Power (University, AL: The University of Alabama Press, 1983). A study of the President's relations with Congress in the making of domestic policy. Revised version of doctoral dissertation.

The Right to Life Movement and Third Party Politics (Westport, CT: Greenwood Press, 1987). A study of the New York multi-party system, single-issue third parties, and the state-based Right to Life Party.

The Presidential Veto: Touchstone of the American Presidency (Albany, NY: SUNY Press, 1988), with a foreword by Louis Fisher. A study of the constitutional antecedents and modern applications of the veto power. Published as part of SUNY Press Series on Leadership, edited by Barbara Kellerman.

Editor, The Bicentennial of the U.S. Constitution: Commemoration and Renewal (Cortland, NY: SUNY Cortland, 1990). A compendium of articles based on presentations given at SUNY Cortland pertaining to the Constitution's Bicentennial. Contributors include Senator Daniel Patrick Moynihan, Theodore J. Lowi, Judith A. Best, and Robert

Spitzer.

President and Congress: Executive Hegemony at the Crossroads of American Government (New York: McGraw-Hill; and Temple University Press, 1993). Published simultaneously by co-publishing agreement in paper by McGraw-Hill, and hardcover by Temple. An analytic survey and critique of presidential-congressional relations. Received Honorable Mention for the Richard Neustadt Award for Best Book on the Presidency for 1993.

Editor, Media and Public Policy (New York: Praeger, 1993). Published in Praeger's Political Communications Series, edited by Robert E. Denton, Jr. A collection of original essays dealing with various aspects of media's impact on public policy. Contributors include Doris Graber, Julio Borquez, Wenmouth Williams, Marion Just, Ann Crigler, Michael Hawthorne, Dean Alger, Jerry Medler, Michael Medler, Montague Kern, Robert Sahr, Holli Semetko, Edie Goldenberg, Patrick O'Heffernan, and Robert Spitzer.

The Politics of Gun Control (New York: Chatham House, 1995; 2nd edition, 1998; 3rd edition, CQ Press, 2004; 4th ed. 2008; 5th ed., Paradigm/Routledge Publishers 2012; 6th ed., Routledge, 2015, 7th ed., 2018; 8th ed. 2021). A comprehensive political and policy analysis of the gun issue that applies policy theory to the key elements of the gun debate, including analysis of the Second Amendment, cultural-historical factors, interest group behavior, criminological consequences, legislative and executive politics.

Editor, Politics and Constitutionalism: The Louis Fisher Connection, (Albany, NY: SUNY Press, 2000). A collection of original essays inspired by the works of Louis Fisher. Contributors include Neal Devins, Nancy Kassop, Dean Alfange, David Adler, Loch Johnson, Michael Glennon, Louis Fisher, and Robert Spitzer. Published as part of the SUNY Press Book Series on American Constitutionalism. Nominated by SUNY Press for the 2001 Silver Gavel Award of the American Bar Association.

The Right to Bear Arms: Rights and Liberties Under the Law (Santa Barbara, CA: ABC-CLIO, 2001). An extensive analysis of the Second Amendment "right to bear arms" from legal, historical, and political perspectives. Published as part of the "America's Freedoms" Series edited by Donald Grier Stephenson.

Essentials of American Politics, co-authored with Benjamin Ginsberg, Johns Hopkins; Theodore Lowi, Cornell; Margaret Weir, Berkeley. (W.W. Norton, 2002; 2nd edition, 2006). A synthetic, analytic look at American government and politics.

The Presidency and the Constitution: Cases and Controversies, co-authored with Michael A. Genovese (NY: Palgrave/Macmillan, 2005). A combination of analysis and cases examining the courts' view of presidential power.

Saving the Constitution from Lawyers: How Legal Training and Law Reviews Distort Constitutional Meaning (New York: Cambridge University Press, 2008). A sweeping indictment of the legal community when it enters into the realm of constitutional interpretation.

We the People: Essentials Edition, co-authored with Benjamin Ginsberg, Johns Hopkins; Theodore Lowi, Cornell; Margaret Weir, Berkeley. (W.W. Norton, 7th ed. 2009; 8th ed. 2011; 9th ed., 2013; 10th ed. 2015; 11th ed. 2017; 12th ed. 2019; 13th ed. 2021).

Gun Control: A Documentary and Reference Guide (Westport, CT: Greenwood Publishing Group, 2009). A combination of analysis, commentary, and original historical and contemporary documents pertaining to the gun issue published in Greenwood's Documentary and Reference Series.

The Gun Debate: An Encyclopedia of Gun Rights and Gun Control, co-authored with Glenn Utter (Grey House Publishers, 2011; third edition 2016). An A-Z compendium of gun issues.

Guns across America: Reconciling Gun Rules and Rights (New York: Oxford University Press, 2015); revised paperback edition published 2017. Argues that our understanding of the gun issue as it has evolved in the U.S. is upside down, looking at gun law history, the Second Amendment, stand your ground laws, and New York State gun laws.

The Gun Dilemma: How History Is Against Expanded Gun Rights (New York: Oxford University Press, 2023, forthcoming). Argues that the courts are ushering in a new era of expanded gun rights, despite the fact that such a movement is contrary to our gun history by examining assault weapons, ammunition magazines, silencers, gun brandishing, and the Second Amendment sanctuary movement.

Book Series Editor, Series on American Constitutionalism, SUNY Press, 1996-present. Books include:

Daniel Hoffman, Our Elusive Constitution, (1997)

Martin Sheffer, God and Caesar: Belief, Worship, and Proselytizing Under the First Amendment, (1999)

Daniel Levin, Representing Popular Sovereignty: The Constitution in American Political Culture, (1999)

Robert Spitzer, ed., Politics and Constitutionalism, (2000)

Laura Langer, Judicial Review in State Supreme Courts (2002)

Ian Brodie, Friends of the Court (2002)

Samuel Leiter and William Leiter, Affirmative Action in Antidiscrimination Law and Policy (2002)

Artemus Ward, Deciding to Leave: The Politics of Retirement from the United States Supreme Court (2003)

- James T. McHugh, Ex Uno Plura: State Constitutions and Their Political Cultures (2003)
- Stephen Newman, ed., Constitutional Politics in Canada and the United States (2004).
- Stephen Kershnar, Justice for the Past (2004).
- Timothy R. Johnson, Oral Arguments and Decision Making on the U.S. Supreme Court (2004).
- Christopher P. Banks, David B. Cohen, and John C. Green, eds., The Final Arbiter: The Consequences of Bush v. Gore for Law and Politics (2005)
- Kenneth D. Ward and Cecilia R. Castillo, eds., The Judiciary and American Democracy: Alexander Bickel, the Countermajoritarian Difficulty, and Contemporary Constitutional Theory (2005).
- G. Alan Tarr and Robert F. Williams, eds., State Constitutions for the Twenty-first Century: The Politics of State Constitutional Reform (2006).
- Frank P. Grad and Robert F. Williams, State Constitutions for the Twenty-first Century: Drafting State Constitutions, Revisions, and Amendments (2006).
- G. Alan Tarr and Robert F. Williams, eds., State Constitutions for the Twenty-first Century: The Agenda of State Constitutional Reform, 3 vols. (2006).
- Cary Federman, The Body and the State: Habeas Corpus and American Jurisprudence (2006).
- Christopher S. Kelley, ed., Executing the Constitution: Putting the President Back into the Constitution (2006).
- David Fagelson, Justice as Integrity: Tolerance and the Moral Momentum of Law (2006).
- Christopher Shortell, Rights, Remedies, and the Impact of State Sovereign Immunity (2008).
- Robert Blomquist, The Quotable Judge Posner (2010).
- Kirk A. Randazzo, Defenders of Liberty or Champions of Security? (2010).
- Pamela Corley, Concurring Opinion Writing on the U.S. Supreme Court (2010).
- Samuel Leiter and William Leiter, Affirmative Action in Antidiscrimination Law and Policy (2nd ed. 2010).
- Julia R. Azari, et al., eds., The Presidential Leadership Dilemma (2013).
- Stephen A. Simon, Universal Rights and the Constitution (2014).
- Kirk A. Randazzo and Richard W. Waterman, Checking the Courts (2014).
- Anthony Maniscalco, Public Spaces, Marketplaces, and the Constitution (2015).
- Goirgi Areshidze et al., eds., Constitutionalism, Executive Power, and the Spirit of Moderation (2016).
- Peter J. Galie, et al., eds., New York's Broken Constitution (2016).
- Robert J. Hume, Ethics and Accountability on the U.S. Supreme Court (2017).
- Michael A. Dichio, The U.S. Supreme Court and the Centralization of Federal Authority (2018).
- Clyde H. Ray, John Marshall's Constitutionalism (2019).
- Daniel P. Franklin, et al., The Politics of Presidential Impeachment (2020).

Robert M. Howard, et al., Power, Constraint, and Policy Change: Courts and Education Finance Reform (2021).
Mark C. Dillon, The First Chief Justice (2022).

Book Series Editor, Presidential Briefing Books, Routledge, 2015-present.
Mary Stuckey, Political Rhetoric (2015)
Michael A. Genovese, Presidential Leadership in an Age of Change (2015)
Christopher Fettweis, Making Foreign Policy Decisions (2016)
Nancy Maveety, Picking Judges (2016)
Richard S. Conley, Presidential Relations with Congress (2017)
Andrew L. Stigler, Governing the Military (2019)
Graham G. Dodds, The Unitary Presidency (2020)

Member, Board of Editors for the Encyclopedia of Guns in American Society, 2 vols. (Santa Barbara, CA: ABC-CLIO, 2003; second ed. 2011). Winner of the Booklist Editors' Choice Award for 2003, American Library Association.

Member, Board of Editors, Issues: Understanding Controversy and Society, ABC-CLIO, 2011-2016.

Book Chapters:

"Third Parties in New York," in Governing New York State (formerly New York State Today), ed. by Robert Pecorella and Jeffrey Stonecash (Albany, N.Y.: SUNY Press, 1984, 1989, 1994, 2001, 2006). Chapter revised for second, third, fourth, and fifth editions.

"Gun Control: Constitutional Mandate or Myth," in Social Regulatory Policy: Recent Moral Controversies in American Politics, ed. by Raymond Tatalovich and Byron Daynes (Boulder, CO: Westview Press, 1988), 111-141.

"The President's Veto Power," in Inventing the American Presidency: Early Decisions and Critical Precedents, ed. by Thomas Cronin (Lawrence, KA: University Press of Kansas, 1989), 154-179.

"President and Congress," in The CQ Guide to the Presidency, ed. by Michael Nelson (Washington, D.C.: Congressional Quarterly, Inc., 1989; revised for 2nd ed., 1996 and 3rd ed. 2002; 4th ed. 2007; 5th ed. 2012).

Nineteen entries in Encyclopedia of American Political Parties and Elections, ed. by L. Sandy Maisel (New York: Garland Pub., 1991): American Labor Party, Benjamin Bubar,

closed primary, Conservative Party, cross-endorsement rule, Free Soil Party, Greenback Party, Liberal Party, Liberty Party, John V. Lindsay, Allard K. Lowenstein, open primary, Right to Life Committee, Right to Life Party, Prohibition Party, Alex Rose, split ticket voting, telethons, Mary Jane Tobin.

Author of "Thought Boxes" for Theodore J. Lowi and Benjamin Ginsberg, American Government: Freedom and Power (NY: W.W. Norton, 1990, 1992, 1994, 1996, 1998); 50 for 1st ed.; 30 additional for 2nd ed., 45 additional for 3rd ed.; 29 for 4th ed., 26 for 5th.

"Executive Vetoes," in Encyclopedia of the American Legislative System, ed. by Joel Silbey (NY: Charles Scribner's Sons, 1993).

"The Conflict Between Congress and the President Over War," in The Presidency and the Persian Gulf War, ed. by Marcia Whicker, Raymond Moore, and James Pfiffner (New York: Praeger, 1993).

"Is the Separation of Powers Obsolete?" in The Presidency Reconsidered, ed. by Richard W. Waterman (Itasca, IL: F.E. Peacock, 1993); also in Understanding the Presidency, ed. by James Pfiffner and Roger Davidson (NY: Longman, 1997; 2nd ed. 2000; 3rd ed. 2002; 4th ed. 2006).

Seven entries in the Encyclopedia of the American Presidency, ed. by Leonard W. Levy and Louis Fisher (NY: Simon and Schuster, 1994), including "Council on Environmental Quality," "Office of Intergovernmental Relations," "Presentation Clause," "Signing Statements," "Item Veto," "Pocket Veto," "Regular Veto".

Two entries in the Encyclopedia of the United States Congress, ed. by Donald C. Bacon, Roger H. Davidson, and Morton Keller (NY: Simon and Schuster, 1994), including "Separation of Powers" and "Presidential Veto".

"The President, Congress, and the Fulcrum of Foreign Policy," in The Constitution and the Conduct of American Foreign Policy, ed. by David Gray Adler, with an introduction by Arthur Schlesinger, Jr. (Lawrence, KS: University Press of Kansas, 1996), 85-113.

"Resources Development in the EOP," in The Executive Office of the President, ed. by Harold Relyea (Westport, CT: Greenwood Press, 1997).

"Council on Environmental Quality," in the Oxford Historical Guide to American Government (NY: Oxford University Press, 1997).

"From Presidential Shield to 'Go Ahead, Make My Day': The Presidential Veto and the Constitutional Balance of Power," in Liberty Under Law, ed. by Kenneth Grasso and Cecilia R. Castillo (Lanham, MD: University Press of America, 1997; 2nd ed. 1998).

"Multi-Party Politics in New York," in Multi-Party Politics and American Democracy, ed. by Paul Herrnson and John Green (Rowman & Littlefield, 1997; revised for second edition, 2002).

Author of "Cultures" and "Debates" boxes for Benjamin Ginsberg, Theodore Lowi, and Margaret Weir, We the People (NY: W.W. Norton, 1997, 1999). 19 for 1st ed.; 17 for 2nd ed.

"Gun Control: Constitutional Mandate or Myth?" in Moral Controversies in American Politics, ed. by Raymond Tatalovich and Byron Daynes (NY: M.E. Sharpe, 1998; 2005; 2010), 164-195. Revised for new editions.

"The Right to Life Party" and related entries in The Encyclopedia of American Third Parties, ed. by Immanuel Ness and James Ciment (NY: M.E. Sharpe, 2000).

"New York, New York: Start Spreadin' the News," in Prayers in the Precincts, ed. by John Green, Mark Rozell, and Clyde Wilcox (Washington, DC: Georgetown University Press, 2000).

"The Clinton Crisis and Its Consequences for the Presidency," in The Clinton Scandal and the Future of American Politics, ed. by Mark Rozell and Clyde Wilcox (Washington, DC: Georgetown University Press, 2000), 1-17.

"Saving the Constitution from Lawyers," in Politics and Constitutionalism, ed. by Spitzer (Albany, NY: SUNY Press, 2000).

"Gun Control and Policy" and "Veto Power" for the Encyclopedia of American Political History, ed. by Paul Finkelman (Washington, D.C.: Congressional Quarterly, 2000).

"Article I, Section 7," in The Constitution and Its Amendments, ed. by Roger Newman (NY: Macmillan, 2001).

"Lost and Found: Researching the Second Amendment," in The Second Amendment in Law and History, ed. by Carl Bogus (NY: The New Press, 2001), 16-47.

"Veto Power" in The Oxford Companion To United States History ed. by Paul Boyer (NY: Oxford University Press, 2001).

"The Independent Counsel and the Post-Clinton Presidency" in The Presidency and the Law: The Clinton Legacy, ed. by David Adler and Michael Genovese (Lawrence, KS: University Press of Kansas, 2002), 89-107.

“The Veto King: The ‘Dr. No’ Presidency of George Bush,” in Honor and Loyalty: Inside the Politics of the Bush White House, ed. by Leslie Feldman and Rosanna Perotti (Westport, CT: Greenwood Press, 2002), 233-53.

Fifty-two entries in the Encyclopedia of Guns in American Society, ed. by Gregg Lee Carter (Santa Barbara, CA: ABC-CLIO, 2003; second ed. 2011): including AWARE, assault weapons, Assault Weapons ban of 1994, automatic weapons laws, background checks, Brady Law, Harlon Carter, Eddie Eagle, Federation for NRA, Firearms Owners Protection Act of 1986, NRA-ILA, LSAS, Licensing, MMM, MAVIA, National Board for the Promotion of Rifle Practice, National Guard, NRA, NRA PVF, Presser v. Illinois, Quilici v. Morton Grove, Safety Courses, SAS, semiautomatic weapons, speedloaders, Turner Diaries, Waiting Periods.

Nine entries for the Encyclopedia of the American Presidency, ed. by Michael Genovese (NY: Facts on File, 2004): Edward Corwin, Council on Environmental Quality, Gramm-Rudman-Hollings, Persian Gulf War, legislative veto, presentation clause, item veto, pocket veto, veto.

“Third Parties,” “Presidents,” and “The Right to Life Party” for The Encyclopedia of New York State, ed. by Peter Eisenstadt (Syracuse: Syracuse University Press, 2004).

“Gun Rights for Terrorists? Gun Control and the Bush Presidency,” Transformed By Crisis: The Presidency of George W. Bush and American Politics, ed. by Jon Kraus, Kevin McMahon, and David Rankin (NY: Palgrave Macmillan, 2004), 141-165.

“The Presidential Veto Is An Effective Tool for Governing,” in Debating the Presidency, Robert P. Watson and David Freeman, eds. (Dubuque, IA: Kendall/Hunt, 2005).

“Veto: The Power to Say ‘No,’” in Thinking About the Presidency, ed. by Gary L. Gregg (Lanham, MD: Rowman & Littlefield, 2005).

“The ‘Protective Return’ Pocket Veto: Presidential Aggrandizement of Constitutional Power,” Executing the Constitution, ed. By Chris Kelley (Albany: SUNY Press, 2006), 109-126.

“Gun Violence and Gun Control,” in Social Issues in America: An Encyclopedia, 8 vols., ed. By James Ciment (NY: M.E. Sharpe, 2006).

“The Commander-in-Chief Power and Constitutional Invention in the Bush Administration,” The Presidency and the Challenge of Democracy, ed. By Michael Genovese and Lori Cox Han (New York: Palgrave Macmillan, 2006), 93-117.

“Right to Bear Arms,” Encyclopedia of American Civil Liberties, 4 vols., ed. By Paul

Finkelman (NY: Routledge, 2006).

“Gun Violence is a Serious Problem,” Gun Violence: Opposing Viewpoints, Margaret Haerens, ed. (New York: Thomson Gale, 2006).

“The Commander-in-Chief Power in the George W. Bush Administration,” Presidential Power in America, ed. By Lawrence R. Velvel (Andover, MA: Doukathsan Press, 2007).

“Presidential Veto” and “Gun Control,” Encyclopedia of American Government and Civics ed. Michael Genovese and Lori Cox Han (New York: Facts-on-File, 2008).

“Gerald R. Ford,” Encyclopedia of Political Communication ed. By Lynda Lee Kaid and Christina Holtz-Bacha (Thousand Oaks, CA: Sage Pubs., 2008).

“Leading Elite Opinion: Law Reviews and the Distortion of Scholarship,” in Leadership at the Crossroads, Vol 2, “Leadership and Politics,” ed. By Michael Genovese and Lori Cox Han (Westport, CT: Praeger, 2008).

“Gun Control Policy,” in Encyclopedia of Issues in U.S. Public Policy, ed. By Mark Rushefsky (Farmington Hills, MI: Gale Publishing, 2009).

“‘Hot’ and ‘Not-So-Hot’ Buttons in the 2008 Presidential Election,” in Winning the Presidency 2008, William Crotty, ed. (Boulder, CO: Paradigm Publishers, 2009).

“Resolved, that the President Should Not be Given a Line Item Veto,” in Debating Reform: Conflicting Perspectives on How to Fix the American Political System, Richard Ellis and Michael Nelson, eds. (Washington, D.C.: CQ Press, 2010; revised for 2nd ed. 2013).

“Looking Through the Other End of the Telescope: Playing in Lowi’s Arenas,” in Political Science as Public Philosophy: Essays in Honor of Theodore J. Lowi, Benjamin Ginsberg and Gwendolyn Mink, eds. (New York: W.W. Norton, 2010).

“Why Do Americans Love Guns So Much, and Does Everyone Own One?” You Asked: 20 Questions About America, U.S. Department of State, 2010.

“Liberals and the Presidency,” Contending Approaches to the American Presidency, Michael Genovese, ed. (Washington, DC: CQ Press, 2011).

“Is the Constitutional Presidency Obsolete?” The American Presidency in the 21st Century, Charles Dunn, ed. (Lexington: University Press of Kentucky, 2011).

“Gun Control,” in Governing America, ed. By Paul Quirk and William Cunion (New

York: Facts on File, 2011).

“Stricter Gun Laws are Reasonable and Sensible,” for Issues: Understanding Controversy and Society, ABC-CLIO, 2011. Web. 28 September.

“Gun Control,” Encyclopedia of Applied Ethics, 2nd ed., Vol. 2, Ruth Chadwick, ed. (San Diego: Academic Press/Elsevier, 2012), 538-44.

“Hot Button Issues in the Presidential Campaign: 47% Yes, Guns No?” Winning the Presidency 2012, William J. Crotty, ed. (Boulder, CO: Paradigm Publishers, 2013).

“Meaning of the Second Amendment: The Motives Behind the Second Amendment: Federalism and Military Preparedness.” American Government. ABC-CLIO, 2013. Web. September 10.

“Clinton and Gun Control: Boon or Bane?” A True Third Way? Domestic Policy and the Presidency of William Jefferson Clinton, Richard Himmelfarb, ed. (New York: Nova Publishers, 2014), 81-92.

“Gun Control,” American Governance, 5 vols. Stephen L. Schechter, ed. (Detroit: Macmillan, 2016).

“John Tyler and the Constitution,” American Presidents and the Constitution, Ken Gormley, ed. (New York: New York University Press, 2016).

“The Unitary Executive and the Bush Presidency,” The George W. Bush Presidency, Meena Bose, ed. (New York: Nova Publishers, 2016).

“Stricter Gun Laws are Reasonable and Sensible,” Gun Control in the United States: A Reference Handbook, Gregg Lee Carter, ed. (Santa Barbara, CA: ABC-CLIO, 2017).

“Gun Policy Research: Personal Reflections on Public Questions,” Guns: Interdisciplinary Approaches to Politics, Policy, and Practice, Jennifer Carlson, Kristin Goss and Harel Shapira, eds. (New York: Routledge, 2019).

“Conclusion: The Five Rules of Trump,” Presidential Leadership and the Trump Presidency: Executive Power and Democratic Governance, Charles Lamb and Jacob Neihsel, eds. (New York: Palgrave Macmillan, 2020).

“Looking Down the Barrel of the 2020 Elections,” The 2020 Presidential Election: Key Issues and Regional Dynamics, Luke Perry, ed. (New York: Palgrave Macmillan, 2022).

“Gun Policy and Politics in America,” Developments in American Politics 9, Gillian

Peele, Bruce Cain, Jon Herbert, Andrew Wroe, eds. (Palgrave/Macmillan, 2022).

“To Brandish or Not to Brandish: The Consequences of Gun Display,” New Histories of Gun Rights and Regulation: Essays on the Place of Guns in American Law and Society, Joseph Blocher, Jacob Charles, and Darrell A.H. Miller, eds. (NY: Oxford University Press, forthcoming).

“How the NRA evolved from backing a 1934 ban on machine guns to blocking nearly all firearm restrictions today” and “US tragedies from guns have often – but not always – spurred political responses,” The Conversation on Gun Control (Baltimore: Johns Hopkins University Press, 2023, forthcoming).

Articles:

"Jamestown: Anatomy of an All-American City," Sunday Buffalo Courier Express Magazine, August 24, 1975.

"The Democratic National Telethons: Their Successes and Failures," with John W. Ellwood, The Journal of Politics, 41 (August, 1979): 828-864.

"The Presidency and Public Policy: A Preliminary Inquiry," Presidential Studies Quarterly, 9 (Fall, 1979): 441-457.

"Presidential Policy Determinism: How Policies Frame Congressional Responses to the President's Legislative Program," Presidential Studies Quarterly, 13 (Fall, 1983): 556-574.

"A Political Party is Born: Single-Issue Advocacy and the Election Law in New York State," National Civic Review, 73(July/August, 1984): 321-328.

"More Parties Mean Better Parties," Party Line, 17 (September 1984).

"Shooting Down Gun Myths," America, June 8, 1985, pp. 468-69. Reprinted in: the Des Moines Register, October 24, 1985; Criminal Justice, ed. by Susan Bursell (St. Paul, MN: Greenhaven Press, 1986); U.S. News and World Report educational study unit on Gun Control, April/May, 1987; Gun Control, ed. by Robert Emmet Long (New York: H.W. Wilson Co., 1989); and The Informed Argument, 2nd ed., 3rd ed., Robert K. Miller, ed. (NY: Harcourt, Brace, Jovanovich, 1989, 1992).

"The Item Veto: A Bad Idea That Lives On," America, June 15, 1985.

"The Item Veto Reconsidered," Presidential Studies Quarterly 15(Summer, 1985):

611-17.

"Promoting Policy Theory: Revising the Arenas of Power" Policy Studies Journal, 15 (June 1987), 675-89. Reprinted in Public Policy Theories, Models, and Concepts, ed. by Daniel C. McCool (Prentice-Hall, 1995).

"A Course Module: The Politics of Abortion," NEWS for Teachers of Political Science, 53 (Spring, 1987).

"But for A Single Vote...," New York Delegate, July, 1987. Abridged version appeared on editorial page of the Rochester Times Union, 2/10/87.

"Multi-Party Politics in New York: A Cure for the Political System?," Election Politics, 5 (Summer, 1988): 14-16.

"From Complexity to Simplicity: More on Policy Theory and the Arenas of Power," Policy Studies Journal, 17 (Spring, 1989): 529-36.

"Complexity and Induction: Rejoinder to Kellow," Policy Studies Journal, 17(Spring, 1989): 547-49.

"Liberalism and Juridical Democracy," PS: Political Science and Politics, 23(December 1990): 572-74.

"Presidential Prerogative Power: The Case of the Bush Administration and Legislative Powers," PS: Political Science and Politics, 24 (March 1991): 38-42.

"Separation of Powers and the War Power," Oklahoma City University Law Review, 16, 2(Summer 1991): 279-293.

"The Disingenuous Presidency: Reagan's Veto and the `Make-My-Day' President," Congress and the Presidency, 21 (Spring, 1994): 1-10.

"Tenure, Speech, and the Jeffries Case: A Functional Analysis," Pace Law Review, 15, 1 (Fall 1994), 111-39.

"Can 3.5 Million Americans Be Wrong?" The Spectator, May 27, 1995, 12-13.

"The Constitutionality of the Presidential Line-Item Veto," Political Science Quarterly, 112 (Summer, 1997): 261-84.

"The Item Veto Dispute and the Secular Crisis of the Presidency," Presidential Studies Quarterly, 28 (Fall 1998): 799-805.

“Clinton’s Impeachment Will Have Few Consequences for the Presidency,” PS: Political Science and Politics, 32 (September 1999).

“The Gun Dispute,” American Educator, 23 (Summer 1999): 10-15. Reprinted in Annual Editions: Criminal Justice (Dushkin/McGraw-Hill, 2000); and in Criminology (Dushkin/McGraw-Hill, 2001).

“The Changing Face of Gun Politics,” Congress Monthly, September/October 2000.

“Lost and Found: Researching the Second Amendment,” Chicago-Kent Law Review 76 (2000): 349-401. Cited in 2002 by the U.S. Court of Appeals for the Ninth Circuit, Silveira v. Lockyer (312 F.3d 1052; 2002); 2002 U.S. App. LEXIS 24612.

“The ‘Protective Return’ Pocket Veto: Presidential Aggrandizement of Constitutional Power,” Presidential Studies Quarterly 31 (December 2001), 721-34.

“The Second Amendment ‘Right to Bear Arms’ and the *Emerson Case*,” St. John’s Law Review 77 (Winter 2003): 1-27.

“Gun Laws and Policies: A Dialogue,” Focus on Law Studies 18(Spring 2003): 1-17.

“Don’t Know Much About History, Politics, or Theory,” Fordham Law Review 73 (November 2004), 721-30.

“Seven Modest Tips on Publishing,” PS: Political Science and Politics 38(October 2005): 746-47.

“Re-Examining the War Power,” with Michael Genovese, The PRG Report 30(Fall 2005).

“Tactics, Turnout, and Timing in the Elections of 2004,” with Glenn Altschuler, American Literary History 19(Spring 2007): 108-19.

“Reducing Firearm Violence: A Research Agenda,” co-authored, Injury Prevention 13 (April 23, 2007), 80-84.

“Why History Matters: Saul Cornell’s Second Amendment and the Consequences of Law Reviews,” Albany Government Law Review 1(Spring 2008): 312-53.

“Saving the Presidency From Lawyers,” Presidential Studies Quarterly 38(June 2008): 329-46.

“Still Saving the Constitution from Lawyers: A Response,” Gonzaga Law Review 46(December 2010/11): 103-16.

“Gun Law, Policy, and Politics,” Government, Law and Policy Journal 14(Summer 2012): 57-64.

“Growing Executive Power: The Strange Case of the ‘Protective Return’ Pocket Veto,” Presidential Studies Quarterly 42(September 2012): 637-55.

“Gun Laws,” New York State Bar Association Journal 84(July/August 2012), 35-42.

“Misfire in the 2012 Election,” Presidents and Executive Politics Report 35(Fall 2012).

“Writing the Gun Debate,” Los Angeles Review of Books, February 10, 2013.

“A Historical Look at Gun Control in America,” WCNY Magazine, May/June 2013.

“What’s Old Is New Again: Political Science, Law, and Constitutional Meaning,” PS: Political Science and Politics 46(July 2013): 493-97.

“Separating Truth and Myth in the American Gun Debate,” The Islamic Monthly, Fall 2013.

“Comparing the Constitutional Presidencies of George W. Bush and Barack Obama: War Powers, Signing Statements, Vetoes,” White House Studies 12(October 2013): 125-46.

“A Look at the 2014 Elections,” WNCY Magazine, March/April 2014.

“New York State and the New York SAFE Act: A Case Study in Strict Gun Laws,” Albany Law Review, 78 (2014/2015): 749-87.

“The Unitary Executive and the Bush Presidency,” Social Science Docket, 15(Summer-Fall 2015).

“Gun Rights, Tyranny, and Rebellion: John Locke, the American Constitution and the Right to Bear Arms,” The Critique (July/August 2016).

“Gun Law History in the United States and Second Amendment Rights,” Law and Contemporary Problems 80, 2(2017): 55-83.

“Researching Gun Policy: Futile or Feasible?” Items: Insights from the Social Sciences, Social Science Research Council, October 17, 2018.

“Effective Gun Regulation Can Be Compatible with Gun Rights,” The Regulatory Review, University of Pennsylvania Program on Regulation, November 6, 2018.

“Gun Accessories and the Second Amendment: Assault Weapons, Magazines, and Silencers,” Law and Contemporary Problems 83, 3(2020): 231-55.

Op-Ed Articles

"Court Rulings on 2nd Amendment: No Individual Right to Keep Arms," Des Moines Register, October 24, 1985.

"Gun Control and Pressure Politics," Syracuse Post-Standard, November 30, 1985.

"Pocket Vetoes and Abuse of Power," Rochester Times Union, January 7, 1987.

"But for One Vote, a Different Nation," Rochester Times Union, February 10, 1987.

"Reagan's Veto: It's Mostly Show and Not Much Go," Rochester Times Union, September 14, 1987.

"The Great Gun Fallacy," Syracuse Post-Standard, March 30, 1989.

"Four Cases on Right to Bear Arms," Syracuse Post-Standard, April 22, 1989.

"Don't Start Line-Item Veto," Syracuse Post-Standard, May 9, 1990.

"Clinton Must Balance Activism, Congress' Constitutional Power," Syracuse Post-Standard, January 21, 1993.

"More Permits Mean Less Crime, But Not in Cities," Los Angeles Times, February 19, 1996.

"Door No. 1: Muskets? Or Door No. 2: Free Speech?" Christian Science Monitor, September 19, 1997.

“Assault Weapons Ban,” Christian Science Monitor, April 16, 1998.

“As a National Candidate, Pataki Faces Big Hurdles,” Syracuse Post-Standard, February 10, 1999.

“Gun Industry Doesn’t Know What’s Good for It: Regulation,” Syracuse Post-Standard, April 20, 1999.

“The Gun Saga in Congress,” Intellectual Capital, 4 (May 13-20, 1999).

“Hidden Gun Control or Consumer Protection?” Intellectual Capital, 4 (June 10-17, 1999).

“Welcome to Soviet – er, New York – Politics,” Intellectual Capital 5(February 10-17, 2000).

“Gun Control After Columbine,” Intellectual Capital 5(April 20-27, 2000).

“Good May Come From Shooting Tragedies,” The Catholic Review, March 30, 2000.

“Why Would Anyone Want the Job Now?” Chicago Tribune, November 15, 2000.

“The Supreme Court, Bush, and the Election of the Century,” Syracuse Post-Standard, December 18, 2000.

“Ashcroft Playing Politics With the Right to Bear Arms,” Syracuse Post-Standard, June 12, 2001.

“Exposure Erodes Clout of NRA,” Columbus Dispatch, April 24, 2003.

“Hazing Scandals,” Syracuse Post-Standard, November 6, 2003.

“Endorsement Fever,” with Glenn Altschuler, Syracuse Post-Standard, February 18, 2004.

“NRA Loses Its Political Firepower,” Los Angeles Times, April 12, 2004. Also in the Deseret News.

“A ‘Tortured’ Interpretation of the President’s Vast Powers,” Syracuse Post-Standard, June 18, 2004.

“Clearing the Air,” Syracuse Post-Standard, August 4, 2004.

“Why Gun Ban Died Quietly,” San Jose Mercury News, Sunday “Perspectives,” September 19, 2004.

“To Pledge or Not to Pledge,” Christian Science Monitor, August 18, 2005. Also published in the Deseret News, Sacramento Bee, the Fresno Bee, the Modesto Bee, the Ithaca Journal, the Johnstown Breeze, Yahoo.com, and World News Network (wn.com), among others.

“Can He Hear You Now? The Defense of Bush’s Domestic Spying is Nothing But Static,” Syracuse Post-Standard, January 29, 2006.

“Working Hard to Misconstrue the 2nd Amendment,” History News Network (www.hnn.us), March 12, 2007.

“Teens With AK-47 Not Exercising a ‘Right,’” Syracuse Post-Standard, January 3, 2008.

“Is Bush Inventing Another Constitutional Power?” History News Network (www.hnn.us) January 7, 2008.

“The ‘Pocket Veto’ Peril,” Los Angeles Times, January 8, 2008. Reprinted in the St. Louis Post-Dispatch, St. Paul Pioneer Press, Wilmington Star News (NC), News and Observer (NC), The Morning Call (Pa.), Contra Costa Times (CA), the Sun News (FL), The Vindicator, among others.

“Democrats Can Prevent Catastrophe and Hillary Should Help,” with Glenn Altschuler, Cleveland Plain Dealer, February 15, 2008.

“Trouble Ahead?” with Glenn Altschuler, Syracuse Post-Standard, February 15, 2008.

“Saving the Constitution from Lawyers, Parts I, II, III,” The Faculty Lounge (www.thefacultyounge.org), April 16, 19, 22, 2008.

“Saving the Constitution from Lawyers,” History News Network (www.hnn.us), June 9, 2008.

“Heller’s Manufactured Gun Rights Can Be Traced to a Flawed Law Review Article,” History News Network (www.hnn.us), June 30, 2008.

“Lincoln, FDR, Bush: Which Doesn’t Belong?” History News Network (www.hnn.us), January 12, 2009.

“Early Voting for New York Elections,” Cortland Standard, May 27, 2009.

“A Better Way to Run Our Elections,” Syracuse Post Standard, June 3, 2009.

“Senate ‘Resolution,’” with Glenn Altschuler, The Huffington Post (www.huffingtonpost.com), posted December 22, 2009.

“Pres. Obama: Don’t Make This Veto Mistake,” The Huffington Post (www.huffingtonpost.com), posted January 4, 2010.

“Upset About a Census of People? How About a Census of Guns?” *The Huffington Post* (www.huffingtonpost.com), posted April 1, 2010.

“Bart Stupak’s First ‘Profiles in Courage’ Moment,” *The Huffington Post* (www.huffingtonpost.com), posted April 10, 2010.

“Are These Guys Really Militias?” *The Huffington Post* (www.huffingtonpost.com), posted April 20, 2010.

“Incorporating Guns?” *The Huffington Post*, posted June 29, 2010.

“Why Gun Ruling is a Teachable Moment,” CNN.COM, June 30, 2010.

“Why Obama Must Embrace the Veto Strategy,” *The Huffington Post*, posted January 5, 2011.

“A Sensible Approach to Guns, From NY to Arizona,” *Syracuse Post Standard*, January 16, 2011.

“Double Congress’s Pay,” *The Huffington Post*, January 18, 2011.

“Campuses Just Say ‘No’ to Guns,” *The Huffington Post*, February 27, 2011.

“Obama, War Powers, and Yoo,” *The Huffington Post*, March 29, 2011.

“I’m Not a Candidate, but I Play One on TV,” with Glenn Altschuler, *The Huffington Post*, April 11, 2011.

“The Constitution We Nearly Had,” *The Huffington Post*, September 15, 2011.

“Libya and Iraq: A Stop and Think Moment,” *The Huffington Post*, October 24, 2011.

“The GOP and Presidential Power,” *The Huffington Post*, January 3, 2012.

“The Disappearing Faculty,” *The Huffington Post*, February 1, 2012.

“The ‘Good-Guy-Bad-Guy’ Myth Laid Bare,” *The Huffington Post*, March 28, 2012.

“The NRA’s Silent Motive,” *Salon*, April 3, 2012.

“Why We’ve Learned Nothing from Watergate,” *The Huffington Post*, June 20, 2012.

“The NRA’s ‘Fast and Furious’ Gun Walking,” *The Huffington Post*, June 29, 2012.

“Not so Fast: House Committee Wrong on Gun-Running Story,” *Syracuse Post-Standard*, July 4, 2012.

“Aurora Won’t Change Anything,” *Salon*, July 23, 2012.

“Not in New York,” *Syracuse Post-Standard* Sunday Opinion, July 29, 2012.

“Sex, Politics, and the Porn Star DA,” *The Huffington Post*, November 20, 2012.

“Who Gets Guns,” *The Blue Review* (thebluereview.org), December 19, 2012.

“Five Myths About Gun Control,” *The Washington Post*, Sunday Outlook Section, December 23, 2012.

“Government can Improve Gun Records,” *The Hill*, January 15, 2013.

“Doing Nothing on US Gun Laws No Longer an Option,” *The Independent* (Britain), January 17, 2013.

“The President’s Need for Speed,” *The New York Daily News*, January 17, 2013.

“No Need for Panic,” *Cortland Standard*, March 28, 2013.

“From *Duck Dynasty* to the *Ivory Tower*,” *The Huffington Post*, September 3, 2013.

“A History Lesson for Foes of N.Y. Gun Law,” *New York Daily News*, January 3, 2014.

“History Shows Gun Laws Were Common in U.S.,” *Syracuse Post-Standard*, January 7, 2014.

“An Assault Weapons Gambit Backfires,” *New York Daily News*, April 9, 2014.

“Sensible Regulation of Guns is Necessary,” *Rochester Democrat and Chronicle*, April 13, 2014.

“Cortland Can Help Shine Light on Crimes,” *Syracuse Post Standard*, April 27, 2014.

“The Jets, Michael Vick and a College Dilemma,” *The Huffington Post*, April 28, 2014.

“Obama’s Executive Orders: Can We Talk?” *The Huffington Post*, November 18, 2014.

“Leading By Veto,” *Los Angeles Times*, February 3, 2015.

“How Obama Can Use Veto Power Without Being President No,” *Syracuse Post Standard*, February 8, 2015.

“Stand Your Ground Makes No Sense,” *New York Times*, May 4, 2015.

“Gun Laws are as Old as Gun Ownership,” *ACS Blog*, American Constitution Society, May 18, 2015.

“Why Are Assault Weapon Sales Jumping? Because They’re Fun,” *Los Angeles Times*, June 12, 2015.

“Guns Were Much More Strictly Regulated in the 1920s and 1930s than They Are Today,” *History News Network*, June 14, 2015. Also in *Time Magazine*, June 15, 2015.

“Why Assault Rifle Sales Are Booming,” *Chicago Tribune*, June 15, 2015.

“Think the Charleston shooting will lead to new gun control laws? It won’t.” *Washington Post*, June 18, 2015.

“The Politics of the Fourth of July from Musical Theatre,” *Huffington Post*, June 29, 2015.

“Flanagan’s Gun Permit, and Mine,” *N.Y. Daily News*, August 31, 2015.

“Why the Oregon Shooting Likely Won’t Change Anything,” *U.S. News and World Report*, October 2, 2015.

“Obama’s Guantanamo Paradox,” with Chris Edelson, *U.S. News and World Report*, November 30, 2015.

“Arming Everyone is Not the Answer,” *N.Y. Daily News*, December 6, 2015.

“Why Guns for all Is Not a Good Idea,” *Syracuse Post-Standard*, December 13, 2015.

“President Obama’s Recent Vetoes Were Unconstitutional. Congress Should Sue Him.” *Washington Post*, December 30, 2015.

“Obama Should be Sued over Unconstitutional Vetoes,” *Syracuse Post-Standard*, January 1, 2016.

“Nutty Gun Rhetoric Meets Reality,” *U.S. News and World Report*, January 7, 2016.

“Anti-Fluoride Advocate No Expert,” *Cortland Standard*, February 16, 2016.

“What the Orlando Shooting Shows About the Importance of Gun Laws,” *Washington Post*, June 14, 2016.

“Orlando Shooting: Reaction from Cortland Gun Law Expert,” *Syracuse Post Standard*, June 19, 2016.

“Even in the Wild West, There Were Rules About Carrying Concealed Weapons,” *Los Angeles Times*, June 19, 2016.

“Here’s What it Would Take for the U.S. to Ban Assault Weapons Again,” *MarketWatch*, June 24, 2016.

“Political Gridlock, Past and Present,” *Washington Times*, in conjunction with the National Constitutional Literacy Campaign, September 12, 2016.

“Guns Return to American Elections,” *US Election Analysis 2016: Media, Voters and the Campaign*, Centre for Politics & Media Research and the Centre for the Study of Journalism, Culture and Community at Bournemouth University, UK, November 18, 2016.

“Gun Rules and Rights: Where’s the Problem?” Guns Issue, CLOG, 2017.

“Why Congress Will Let Trump Keep Business Ties—for Now,” *Syracuse Post Standard*, January 15, 2017.

“Why There Will Be No Trump Impeachment Now—Even Though There Should Be,” *Huffington Post*, January 18, 2017.

“The NRA Wants to Suppress One of Guns’ Most Important Safety Features,” *Washington Post*, January 23, 2017; *Chicago Tribune*, January 24, 2017.

“Trump’s Tax Returns and Tax Reform: Can We Get Both?” *Syracuse Post Standard*, April 16, 2017.

“Armed Private Militias like Charlottesville’s Offend the Founding Fathers’ Intent,” *NY Daily News*, August 16, 2017.

“Private Militias and Gun Rights,” *Syracuse Post Standard*, August 20, 2017.

“Americans Used to Be Good at Gun Control. What Happened?” *New York Times*, October 3, 2017.

“An American Standoff,” *New York Daily News*, October 8, 2017.

“Laws We Used to Have on the Books Could Have Prevented the Florida School Shooting,” *Washington Post*, February 15, 2018.

“The NRA’s Journey from Marksmanship to Political Brinkmanship,” *The Conversation*, February 23, 2018.

“How to Keep the Deadliest Guns Out of Dangerous Hands,” *New York Daily News*, March 5, 2018.

“You Can Report a Bad Driver; Why Not an Angry Gun Owner?” *Syracuse Post Standard*, March 11, 2018.

“Here’s What Trump Doesn’t Know about Knives, Guns and Murder,” *Washington Post*, May 9, 2018.

“‘Stand Your Ground’ Laws Have Failed to Stem Crime or Improve Safety,” Rockefeller Institute of Government, June 4, 2018.

“What’s Behind NRA TV’s Grotesque Take on ‘Thomas & Friends,’” *CNN.com*, September 13, 2018.

“The Gun Safety Issue is Actually Helping Democrats,” *New York Times*, November 12, 2018.

“Impeachment: Be Careful What You Ask For,” *Syracuse Post Standard*, December 30, 2018.

“Why the Supreme Court Will Almost Surely Strike Down New York City’s Gun Law,” *New York Daily News*, January 24, 2019.

“Why ‘Vice’ Deserves an Oscar,” *Los Angeles Times*, February 7, 2019.

“One Year Later: Parkland Shifted the Politics of Guns,” *Syracuse Post Standard*, February 17, 2019.

“There’s No Second Amendment Right to Large-Capacity Magazines,” *New York Times*, August 6, 2019.

“Can the NRA Survive its Current Crisis?” *History News Network*, hnn.us, August 11, 2019.

“Trump Should Seize This Pivotal Moment and Stop Waffling on Gun Control,” *CNN.com*, August 24, 2019.

“One Gun Policy Idea We Can Agree On: Magazine Regulation,” *Second Thoughts*, The Center for Firearms Law at Duke University, October 10, 2019.

“William Barr’s Upside-Down Constitution,” *History News Network*, December 1, 2019.

“Gun Rights Sanctuaries Threaten Law and Order,” *Syracuse Post Standard*, February 2, 2020.

“Why Are People Bringing Guns to Anti-quarantine Protests? To Be Intimidating,” *Washington Post*, April 27, 2020.

“The NRA is Doomed. It Has Only Itself to Blame.” *Washington Post*, August 8, 2020.

“Guns Don’t Belong Near Polling Places. Right Wingers Want Them There Anyway.” *Washington Post*, September 30, 2020.

“President Trump’s Record on Promises: Did He Keep Them?” *Syracuse Post Standard*, October 1, 2020.

“Originalism, Shot Full of Holes: A Primer for Amy Coney Barrett,” *New York Daily News*, October 14, 2020.

“Guns and the 2020 Elections,” *US Election Analysis 2020*, Daniel Jackson, et al., eds. Centre for Politics & Media Research and the Centre for the Study of Journalism, Culture and Community at Bournemouth University, UK, November 15, 2020.

“Capitol Riot a Fitting End to Trump Presidency Built on Lies,” *Syracuse Post-Standard*, January 8, 2021.

“The Problem with a Self-Pardon,” *History News Network*, January 14, 2021.

“The Supreme Court’s intent isn’t concealed: Conservatives are hell bent on expanding gun rights,” *NY Daily News*, April 26, 2021.

“Expert Opinion: The Coming Collision of Gun Laws and Rights,” Regional Gun Violence Research Consortium, Rockefeller Institute of Government, May 10, 2021.

“The NRA could be winning its long game even as it appears to be in dire straits,” *The Conversation*, November 24, 2021.

“Texas and New York: A Tale of Two State Gun Laws,” *New York Daily News*, January 25, 2022.

“Despite Tragedy, College Campuses Remain Safe,” *Virginia Daily Press/Virginian-Pilot*, February 8, 2022.

“Sandy Hook-Remington gun marketing settlement shows how to fight gun companies,” *NBC THINK*, February 19, 2022.

“The Sandy Hook-Remington Settlement: Consequences for Gun Policy,” Regional Gun Violence Research Consortium, Rockefeller Institute of Government, March 21, 2022.

“Study of US Government Requires Examination of Conflict,” *Virginia Daily Press/Virginian-Pilot*, May 1, 2022.

“How the NRA evolved from backing a 1934 ban on machine guns to blocking nearly all firearm restrictions today,” *The Conversation*, May 25, 2022. 150

“The NRA wasn’t always opposed to gun restrictions,” *Chicago Sun-Times*, May 27, 2022.

“Originalism, History, and Religiosity are the Faults of Alito's Reasoning in *Dobbs*,” *History News Network*, May 29, 2022.

“US tragedies from guns have often – but not always – spurred political responses,” *The Conversation*, June 8, 2022.

“How the Supreme Court rewrote history to justify its flawed gun decision,” *NBC THINK*, June 23, 2022.

“The Road Ahead for Gun Laws in New York State,” *New York Daily News*, June 28, 2022.

“Understanding the New Gun Policy Collision,” Regional Gun Violence Research Consortium, Rockefeller Institute of Government, July 12, 2022.

“Guns at voting sites have long sparked fears of intimidation and violence – yet few states ban their presence,” *The Conversation*, November 2, 2022.

“Guns at voting sites have long sparked fears of intimidation, violence,” *Syracuse Post-*

Standard, November 4, 2022.

Testimony, Briefs, and Reports:

"Report of a Survey of Contributors to the Democratic Telethon," A Report to the Democratic National Committee, Washington, D.C., January 1974.

"Election Laws, Registration and Voting: Some Recommendations," Testimony presented before the New York State Assembly Committee on Election Law, Albany, N.Y., May 15, 1980.

"New York's Multi-Party System," a presentation given before members of the Mexican and Canadian Parliaments at the Rockefeller Institute for Governmental Studies, Albany, N.Y., October 29, 1982.

"Comments and Recommendations on 'The New York State Assembly: The Need for Improved Legislative Management,'" co-authored with Henry Steck, prepared for the New York State Assembly Republican Study Group, September, 1985.

"Registration, Voting, and the New York Election Law," Testimony presented before the Governor's Task Force to Encourage Electoral Participation, World Trade Center, New York City, December 21, 1987.

"The Pocket Veto and Sine Die Adjournments," Testimony presented to the Rules Committee, Subcommittee on the Legislative Process, House of Representatives, Washington D.C., July 26, 1989.

"Issues Pertaining to the Pocket Veto," Testimony presented to the Judiciary Committee, Subcommittee on Economic and Commercial Law, House of Representatives, Washington, D.C., May 9, 1990.

"The Stealth Veto: Does the President Already Possess Item Veto Powers?" Testimony presented to the Judiciary Committee, Subcommittee on the Constitution, U.S. Senate, Washington, D.C., June 15, 1994.

"The Hidden History of the Second Amendment," The National Press Club, Washington, D.C., May 12, 1998.

"The Second Amendment: A Source of Individual Rights?" Testimony presented to the Judiciary Committee, Subcommittee on the Constitution, Federalism, and Property Rights, U.S. Senate, Washington, D.C., September 23, 1998.

"The Gun Industry: The NRA's Silent Partner," National Press Briefing, Atlanta, GA,

February 2, 1999.

“Program Review: SUNY Oswego Political Science Department,” prepared as part of the department’s review and assessment process, March 2001.

Meeting on Executive Order 13233, pertaining to presidential records access, hosted by Alberto Gonzales, Office of Legal Counsel, the White House, Washington, D.C., December 7, 2001.

Article (“Lost and Found: Researching the Second Amendment,” Chicago-Kent Law Review, 2000) cited as controlling authority by the U.S. Court of Appeals, Ninth Circuit, in the case of *Silveira v. Lockyer* (312 F.3d 1052; 9th Cir. 2002); 2002 U.S. App. LEXIS 24612.

Coauthor, *amicus curiae* brief in the case of *Nordyke v. King*, U.S. Court of Appeals, Ninth Circuit, 319 F.3d 1185 (2003).

White House meeting on changing standards regarding FOIA requests, access to Executive Branch documents, and presidential library design, hosted by White House Counsel Alberto Gonzales and White House Staff Secretary Brett Kavanaugh, Washington, D.C., July 17, 2003.

Invited participant and panelist, “National Research Collaborative Meeting on Firearms Violence,” hosted by the Firearm and Injury Center at the University of Pennsylvania, and the Joyce Foundation, Philadelphia, PA, June 15-17, 2005.

Program Review Report, SUNY Geneseo Political Science Department, March, 2009.

Coauthor with Louis Fisher, *amicus curiae* brief in the case of *Republic of Iraq et al. v. Beatty et. al.*, U.S. Supreme Court, filed March 25, 2009; case decided June 8, 2009 (556 U.S. 848; 2009).

Testimony on bills to enact early voting and other state voting reform measures before the New York State Senate Standing Committee on Elections, Syracuse, NY, May 14, 2009.

Co-author, *amicus* brief in the cases of *NRA v. City of Chicago* and *McDonald v. Chicago*, U.S. Supreme Court, argued March 2, 2010, decided June 28, 2010, 561 U.S. 742 (2010).

Consultant for plaintiffs in *Conservative Party of New York and Working Families Party v. NYS Board of Elections* (10 Civ. 6923 (JSR)), 2010, U.S. District Court for the Southern District of New York.

Co-author, *amicus* brief in the case of *Ezell v. Chicago*, U.S. Court of Appeals for the Seventh Circuit, 651 F.3d 684 (2011).

Co-author, *amicus* brief in the case of *People of the State of Illinois v. Aguilar*, Illinois Supreme Court, No. 08 CR 12069, 2012.

Invited panelist and contributor to conference and report, Institute of Medicine and the National Research Council of the National Academies, “Committee on Priorities for a Public Health Research Agenda to Reduce the threat of Firearm-Related Violence,” National Academies Keck Center, 500 Fifth St., NW, Washington, DC, April 23, 2013.

“Perspectives on the ‘Stand Your Ground’ Movement,” Testimony submitted to the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights, Hearing on “‘Stand Your Ground’ Laws: Civil Rights and Public Safety Implications of the Expanded Use of Deadly Force,” Washington, D.C., October 29, 2013.

Testimony on the Hearing Protection Act to deregulate gun silencers submitted to the U.S. House of Representatives Committee on Natural Resources, Subcommittee on Federal Lands, for Hearings on the Sportsmen’s Heritage and Recreational Enhancement Act (SHARE Act), Washington, D.C., September 12, 2017.

Expert testimony submitted for the State of Massachusetts, Office of Attorney General, in the case of *Worman v. Baker*, No. 1:17-cv-10107-WGY, United States District Court for the District of Massachusetts, submitted September 15, 2017, challenging Massachusetts state assault weapons restrictions. In 2019 the U.S. Court of Appeals for the First Circuit upheld the Massachusetts law (922 F.3d 26).

Member, Regional Gun Violence Research Consortium Organizing Committee, a Task Force organized by NY Governor Andrew Cuomo and the State Department of Education to research and investigate the causes of gun violence in a multi-state effort. February 2018.

Program Review Report, SUNY New Paltz Political Science and International Relations Departments, April 2019.

Consultant on Facebook policies and actions regarding gun issues, Quonundrums Market Research for Facebook, August 17, 2021.

Several of my publications cited in the case ruling of *Duncan v. Bonta*, U.S. Court of Appeals for the Ninth Circuit, November 30, 2021.

Papers and Presentations (not including those given on the Cortland campus):

"The President as Policy-Maker: The Arenas of Presidential Power from 1954 to 1974," American Political Science Association, Washington, D.C., August 28-31, 1980.

"The Right-to-Life Movement as a Third Party: The Policy Environment and Movement Politics," American Political Science Association, New York City, September 3-6, 1981. Reprinted by Rockefeller Institute for Governmental Studies Working Papers, Vol. I, No. 4, September, 1982.

"Viable Democracy or the French Fourth Republic: Multi-Party Politics in New York," New York State Political Science Association, Albany, April 6, 1984.

"The Right-to-Life Movement as Partisan Activity," American Political Science Association, Washington, D.C., August 30 - September 2, 1984.

"Biting the Bullet: Gun Control and Social Regulation," American Political Science Association, New Orleans, La., August 29 - September 1, 1985.

"The Presidential Veto," Northeastern Political Science Association, Boston, MA, November 13-15, 1986.

"Perspectives on the Presidential Veto Power: Antecedents and Evolution," Bicentennial Conference on the Presidency, co-sponsored by the Center for the Study of the Presidency, the Chautauqua Institution and Gannon University, Erie, PA, April 24-26, 1987.

"The Transformation of a Kingly Power: The Presidential Veto, Past and Present," American Political Science Association, Chicago, IL, September 3-6, 1987.

"The Pocket Veto: Expanding Presidential Prerogatives Through the Back Door," American Political Science Association, Washington, D.C., September 1-4, 1988.

"Liberalism and Juridical Democracy; or What's Interesting About Interest Group Liberalism," Western Political Science Association, Newport Beach, CA., March 22-24, 1990.

"Separation of Powers and the War Power," presentation sponsored by the Federalist Society, Cornell University School of Law, April 20, 1990.

"Is the Separation of Powers Obsolete? An Inquiry into Critiques of the Congressional-Presidential Balance of Power," American Political Science Association, Washington,

D.C., August 29-September 1, 1991.

"Hate Speech and the College Campus," conference on Two Hundred Years of Free Expression, SUNY Oneonta, October 2-3, 1992.

"From Presidential Shield to 'Go Ahead, Make My Day': The Presidential Veto and the Constitutional Balance of Power," featured paper presenter for Fall 1992 Symposium on American Constitutionalism, Southwest Texas State University, San Marcos, TX, October 30, 1992.

"The Reagan Presidency and the Veto Power: Symbols and Actions of the 'Make-My-Day' President," Southern Political Science Association, Savannah, GA, November 3-6, 1993.

"Tenure, Speech, and the Jeffries Case: A Functional Analysis," conference on academic Freedom and Tenure, sponsored by New York City Bar Association and Pace University Law School, New York City, March 8, 1994.

"'It's My Constitution, and I'll Cry If I Want To': Constitutional Dialogue, Interpretation, and Whim in the Inherent Item Veto Dispute," American Political Science Association, Chicago, August 31-September 3, 1995. Winner, 1996 Presidency Research Group Founders' Award for Best Paper on the Presidency presented at the 1995 APSA. Paper received mention in the Washington Post, September 24, 1995.

"Guns and Violence," presentation before Bryn Mawr Presbyterian Church Task Force on Violence, Bryn Mawr, PA, October 8, 1995.

"Guns, Militias, and the Constitution," Distinguished Lecture Series, Utica College, Utica NY, March 26, 1996.

"The Right to Bear Arms: A Constitutional and Criminological Analysis of Gun Control," the Cornell University School of Law, October 8, 1996.

"The Veto King: The 'Dr. No' Presidency of George Bush," Conference on the Presidency of George Bush, Hofstra University, Hempstead, NY, April 17-19, 1997.

"Saving the Constitution from Lawyers," American Political Science Association, Washington, D.C., August 28-31, 1997.

"Revolution, the Second Amendment, and Charlton Heston," Gettysburg College, Gettysburg, PA, October 30, 1997.

"Recent Developments in The Politics of Gun Control," Gettysburg College, Gettysburg,

PA, November 10, 1998.

“The Second Amendment, Disarmament, and Arms Control,” Communitarian Summit, the Washington National Airport Hilton, Arlington, VA, February 27-28, 1999.

“The Argument Against Clinton’s Impeachment,” Hyde Park Session, American Political Science Association, Atlanta, September 2-5, 1999.

“Gun Politics After Littleton,” Gettysburg College, Gettysburg, PA, November 9, 1999.

“Lost and Found: Researching the Second Amendment,” Symposium on “The Second Amendment: Fresh Looks,” Chicago-Kent Law School and the Joyce Foundation, Chicago, April 28, 2000.

“The Independent Counsel and the Presidency After Clinton,” American Political Science Association, Washington, D.C., August 31-September 3, 2000.

“From Columbine to Santee: Gun Control in the 21st Century,” Idaho State University, Pocatello, Idaho, April 19, 2001.

“Gun Control in the New Millennium,” Gettysburg College, Gettysburg, PA, November 13, 2001.

“Gun Rights for Terrorists? Gun Control and the Bush Presidency,” A Presidency Transformed By Crises: The George W. Bush Presidency, SUNY Fredonia, NY, October 17-18, 2002.

“Gun Control and the Bush Presidency,” Gettysburg College, Gettysburg, PA, November 21, 2002.

“The Ashcroft Justice Department and the Second Amendment,” American Bar Association Annual Meeting, San Francisco, August 8-11, 2003.

“The Bush Presidency and 9/11,” Keynote Address, Conference on 9/11, Cazenovia College, NY, September 11, 2003.

“Report of the National Task Force on Presidential Communication to Congress,” co-author, Tenth Annual Texas A&M Conference on Presidential Rhetoric, George Bush Presidential Library and Conference Center, College Station, TX, March 4-7, 2004.

“Don’t Know Much About History, Politics, or Law: Comment,” Conference on The Second Amendment and the Future of Gun Regulation, co-sponsored by the Fordham School of Law, the Second Amendment Research Center, and the John Glenn Institute

for Public Service and Public Policy of the Ohio State University, April 13, 2004, New York City.

“Bush vs. Kerry: Election of the Century?” Colgate University, Hamilton, NY, October 20, 2004.

“The Commander-in-Chief Power and Constitutional Invention in the Bush Administration,” a paper presented at a Conference on “Is the Presidency Dangerous to Democracy?”, Loyola Marymount University, Los Angeles, CA, February 7, 2005.

Participant, “The Wheler Family Address on International Relations,” Academic Conference on World Affairs, Cazenovia College, Cazenovia, NY, September 9, 2005.

“What Ever Happened to Gun Control?”, Gettysburg College, Gettysburg, PA, November 1, 2005.

“Clinton and Gun Control: Boon or Bane?” a paper presented at the 11th Presidential Conference on William Jefferson Clinton, Hofstra University, Hempstead, NY, November 10-12, 2005.

“George W. Bush and the Unitary Executive,” Keynote Address for “Quest,” SUNY Oswego Scholars Day, April 19, 2006.

“Resolving Conflict with Intractable Foes: The Lessons of International Relations Theory Applied to the Modern Gun Control Debate,” Bryant University, Smithfield, RI, April 24, 2006.

“The Unitary Executive and the Commander-in-Chief Power,” Conference on Presidential Power in America: The Constitution, the Defense of a Nation and the National Ethos, Massachusetts School of Law Conference Series, Andover, MA, October 14-15, 2006.

“The 2006 Elections,” LeMoyne College, Syracuse, NY, November 29, 2006.

“In Wartime, Who Has the Power?” Symposium on Presidential Power and the Challenge to Democracy, Idaho State University, Pocatello, ID, April 26, 2007.

“Saul Cornell’s Second Amendment: Why History Matters,” Conference on Firearms, the Militia and Safe Cities: Merging History, Constitutional Law, and Public Policy, Albany Law School, Albany, NY, October 18-19, 2007.

“Gun Control and the 2008 Elections,” Third Annual Harry F. Guggenheim Symposium on Crime in America, John Jay College, New York City, December 3-4, 2007.

“The Post-Cold War Vice Presidency,” Cornell Adult University, Cornell University, Ithaca, NY, July 31, 2008.

“Is the Presidency Constitutional?” Roundtable panel on Restoring the Constitutional Presidency, APSA, Boston, August 28-31, 2008.

“The Future of the American Presidency,” Board of the Bristol Statehouse, Bristol, RI, November 30, 2008.

“Is the Constitutional Presidency Obsolete? The Future of the American Presidency,” Symposium on The Future of the American Presidency, Regent University, Virginia Beach, VA, February 6, 2009.

“The Failure of the Pro-Gun Control Movement,” SUNY Oneonta, March 19, 2009.

“The Post-Bush Presidency and the Constitutional Order,” American Political Science Association, Toronto, Canada, September 3-6, 2009.

“Inventing Gun Rights: The Supreme Court, the Second Amendment, and Incorporation,” SUNY Geneseo, March 24, 2010.

“Intelligence Don’t Matter,” Keynote Address to Phi Kappa Phi Induction Ceremony, SUNY Cortland, April 17, 2010.

“The Law and Politics of Gun Control after Tucson,” 6th Annual Harry Frank Guggenheim Symposium on Crime in America, conference on “Law and Disorder: Facing the Legal and Economic Challenges to American Criminal Justice,” John Jay College of Criminal Justice, CUNY, New York City, January 31-February 1, 2011.

“Looking Ahead to the 2012 Elections,” Tompkins County Democratic Committee, Ithaca, NY, August 7, 2011.

“Growing Executive Power: The Strange Case of the ‘Protective Return’ Pocket Veto,” American Political Science Association, Seattle, WA, September 1-4, 2011.

“Gun Control and the Second Amendment,” OASIS Conference, Syracuse, NY, October 3, 2011

“Comparing the Constitutional Presidencies of George W. Bush and Barack Obama: War Powers, Signing Statements, Vetoes,” conference on “Change in the White House? Comparing the Presidencies of George W. Bush and Barack Obama,” Hofstra University, Hempstead, NY, April 19, 2012.

“Watergate After 40 Years: Dick Cheney’s Revenge,” American Political Science Association, New Orleans, LA, August 30-September 2, 2012.

“The Media, American Elections, and Democracy,” OASIS, Syracuse, NY, October 22, 2012.

“Hot Button Issues in the 2012 Presidential Campaign,” Hiram College Conference on the 2012 Elections, Hiram, Ohio, November 15-17, 2012.

“Gun Legislation and Obstacles to Effective Gun Control,” Metropolitan Black Bar Association, New York City Bar Association, November 29, 2012.

“Guns and America,” Syracuse University, Syracuse, NY, February 19, 2013.

“The Constitution Between Opponents,” conference on “The State of the Presidency,” Andrus Center for Public Policy, Boise State University, Boise, ID, February 28, 2013.

“Gun Policy at a Crossroads,” Thursday Morning Roundtable, Syracuse, NY, March 7, 2013.

“Gun Policy Cycles and History,” Pediatric Grand Rounds at the Upstate Golisano Children’s Hospital, Syracuse, NY, March 13, 2013.

“Gun Law and the Constitution,” Monroe County Bar Association, Rochester, NY, March 21, 2013.

“The Architecture of the Gun Control Debate,” Goldfarb Center for Public Affairs, Colby College, Waterville, ME, April 2, 2013.

“The Campbell Debates: This Assembly Supports the NY SAFE Act,” Syracuse University, April 5, 2013.

“What has Sandy Hook Changed? The Evolving Gun Debate,” Reisman Lecture Series, Cazenovia College, Cazenovia, NY, April 17, 2013.

“Gun Policy Change: Infringing Rights, or Following History?” Jefferson Community College, Watertown, NY, April 18, 2013.

“Under the Gun,” Conference on “Gun Violence, Gun Laws, and the Media,” Center on Media, Crime and Justice, John Jay College of Criminal Justice, New York, May 14-15, 2013.

“Five Myths of the Gun Debate,” Lawman of the Year, Cortland County Lawman Committee, Cortland, NY, May 20, 2013.

“Gun Law History,” Sterling Historical Society, Sterling, NY, June 27, 2013.

“Analyzing the New York SAFE Act,” League of Women Voters Forum, Cortland, NY, September 12, 2013.

“Constitution Day, the Second Amendment, and Guns,” OASIS, Syracuse, NY, September 16, 2013.

“The Second Amendment and Guns in America,” Values, Arts, and Ideas Series Constitution Day Speaker, Manchester University, North Manchester, Indiana, September 17, 2013.

“Live By History, Die By History: The Second Amendment, Heller, and Gun Policy,” Georgetown University, Washington, DC, October 18, 2013.

“American Gun Policy,” “Gun Violence: A Comparative Perspective,” and “American History and Foreign Policy, 1960-1990,” King’s College, London, England; Southbank Centre, “Superpower Weekend,” November 8-11, 2013.

“Gun Politics and the Electoral Process,” Oneida County Women’s Democratic Club and County Committee, Utica, NY, November 17, 2013.

“The Second Amendment and the Hidden History of Gun Laws,” Institute for Legislative Studies, University of North Carolina, Greensboro, NC, November 20-21, 2013.

“The Future of Gun Regulation After Newtown,” Fordham University, New York, NY, January 21, 2014.

“The 2014 Elections: The End of the Obama Era?” 22nd Annual Chautauqua, Homer, NY, August 3, 2014.

“New York State and the NY SAFE Act: A Case Study in Strict Gun Laws,” conference on “A Loaded Debate: The Right to Keep and Bear Arms in the 21st Century,” Albany Law School, Albany, NY, October 9, 2014.

“Is Gun Control Un-American or at Least Unconstitutional?” Temple Concord, Syracuse, NY, October 14, 2014.

“The American Gun Debate is Under Water,” TEDxCortland Talk, Hathaway House, Solon, NY, October 25, 2014.

“The Unitary Executive and the Bush Presidency,” Conference on the Presidency of George W. Bush,” Hofstra University, Hempstead, NY, March 24-26, 2015.

“Assessing the Obama Presidency,” Western Political Science Association, Las Vegas, NV, April 1-3, 2015.

“Gun Laws, Gun Policies, and the Second Amendment,” Central New York Council of the Social Studies Professional Development Day Conference, Carnegie Conference Center, Syracuse, NY, October 20, 2015.

“The 2016 Elections,” The Cornell Club of Cortland County, November 17, 2015, Cortland, NY.

“Gun Law History in the U.S. and Second Amendment Rights,” Conference on The Second Amendment: Legal and Policy Issues, New York University Law School and the Brennan Center for Justice, New York City, April 8, 2016.

“The Presidential Elections,” The Century Club, June 7, 2016, Syracuse, NY.

“The 2016 Elections,” Chautauqua, August 3, 2016, Homer, NY.

“The 2016 Elections” Cortland Rotary, Cortland, N.Y. September 20, 2016.

“The 2016 Elections,” Cortland Community Roundtable, October 6, 2016.

“TrumPocalypse 2016,” Finger Lakes Forum, Geneva, N.Y., October 16, 2016.

“The 2016 Elections,” Homer Congregational Church, Homer, N.Y., October 30, 2016.

“Had Enough? Only Five More Days,” OASIS, November 3, 2016, Syracuse, N.Y.

“Guns for Everyone?” OASIS, November 14, 2016, Syracuse, N.Y.

“Sizing Up the Trump Presidency,” Cortland County Democratic Party, June 1, 2017.

“Understanding Impeachment,” Ladies Literary Society, Lafayette, NY, June 7, 2017.

“Guns Across America,” Ithaca College, Ithaca, NY, September 21, 2017.

Guest panelist, “Gun Studies Symposium,” University of Arizona, Tucson, AZ, October 20, 2017.

“Gun Policy and Schools After Parkland,” SUNY Student Assembly Annual Conference, Syracuse, NY, April 7, 2018.

“Gun Laws, History, and the Second Amendment: What Does the Constitution Allow?” Clemson University, SC, April 17, 2018.

“Gun Violence and the History of Gun Laws,” League of Women Voters of Tompkins County, Ithaca, NY, May 23, 2018.

“The Unknown History of Gun Laws in America,” Madison-Chenango Call to Action, Hamilton, NY, June 20, 2018.

“It’s All Academic: The Meaning of the Second Amendment Versus Heller,” Conference on “The Second Amendment: Its Meaning and Implications in Modern America,” Lincoln Memorial University School of Law, Knoxville, TN, January 18, 2019.

“Mulling Over the Mueller Report,” Indivisible Cortland County, Homer, NY, June 15, 2019.

“Gun Accessories and the Second Amendment: Assault Weapons, Magazines, and Silencers,” Symposium on Gun Rights and Regulation Outside the Home, Duke University, Durham, NC, September 27, 2019.

“Gun Policy 101: What Policymakers and the Public Need to Know,” Rockefeller Institute of Government, Albany, NY, October 1, 2019.

Guest expert, Federalist Society Teleforum on *New York State Rifle and Pistol Association v. NYC*, November 22, 2019.

“To Brandish or Not to Brandish: The Consequences of Gun Display,” Duke University Law School Conference on Historical Gun Laws, June 19, 2020 (virtual).

“The 2020 Elections,” Cortland Country Club, October 14, 2020.

Panelist, “Gun Law, Politics, and Policy,” Midwest Political Science Association, Chicago, April 14-17, 2021 (virtual).

“Gun Violence,” Beaches Watch, Florida, August 4, 2021 (virtual).

“Challenging Conversations: Gun Control,” Lockdown University (virtual), April 5, 2022.

“Scholars’ Circle: Gun Control,” June 30, 2022 (virtual).

“Gun Rules and Regulations,” Clubhouse AverPoint, July 2, 2022 (virtual).

“A Nation in Crisis: Are Guns the Problem?” Center for Ethics and Human Values’ Civil Discourse Forum, The Ohio State University, Columbus, OH, September 23, 2022.

“Explaining the 2022 Midterm Elections,” OSHER Lifelong Learning Institute at the College of William and Mary, Williamsburg, Va., October 13, 2022.

“The Gun Rights 2.0 Movement: Public Policy Consequences,” 2022 National Research Conference on Firearm Injury Prevention, Omni Shoreham Hotel, Washington, D.C., November 29-December 1, 2022.

Panel Participation:

Discussant, "Historical Transformations of Political Institutions in the U.S.," Social Science History Association, Rochester, N.Y., November 7-9, 1980.

Chair, "The Political Economy of Single Issue Movements," 1981 American Political Science Association, New York City, September 3-6.

Discussant, "New York Republicans: An Emerging Majority Party?", New York State Political Science Association, Albany, N.Y., April 2-3, 1982.

Round table panel member, "Perspectives on the Reagan Administration," New York State Political Science Association, New York, N.Y., April 8-9, 1983.

Discussant, "Toward a Theory of the Chief Executive," 1983 American Political Science Association, Chicago, Ill., September 1-4, 1983.

Chair and Discussant, "Political Parties and Party Organization," 1984 American Political Science Association, Washington, D.C., August 30 - September 2, 1984.

Discussant, "Reforming the Presidential Selection Process," New York State Political Science Association, New York, N.Y., April 25-26, 1985.

Chair, "Theoretical Approaches to Policy Concerns," American Political Science Association, New Orleans, La., August 29 - September 1, 1985.

Discussant, "Perspectives on Presidential Influence," American Political Science Association, New Orleans, La., August 29 - September 1, 1985.

Discussant, "The Item Veto," American Political Science Association, New Orleans, La., August 29 - September 1, 1985.

Chair, "Mobilizing Interests on National Policies," American Political Science Association, Washington, D.C., August 28-31, 1986.

Discussant, "The News Media and American Politics," American Political Science Association, Washington, D.C., August 28-31, 1986.

Chair, "Perspectives on the Bicentennial of the U.S. Constitution," New York State Political Science Association, New York City, April 3-4, 1987.

Discussant, "The Presidency in Comparative Perspective," and "Media and Models of Public Policy-Making," American Political Science Association, Atlanta, Aug. 31 - Sept. 3, 1989.

Discussant, "Presidents and Economic Interests," American Political Science Association, Washington, D.C., August 29 - September 1, 1991.

Panel Chair, "The Presidential Role in Policy Making," American Political Science Association, Chicago, September 3-6, 1992.

Discussant, "Presidential Influence on Congress," American Political Science Association, Washington, D.C., September 2-5, 1993.

Discussant, "Bureaucratic Politics," Southern Political Science Association, November 3-6, 1993.

Discussant, "The President's Extra-Constitutional Power," American Political Science Association, New York City, September 1-4, 1994.

Discussant, "Roundtable on the President and Congress in a Republican Age," Western Political Science Association, San Francisco, March 14-16, 1996.

Chair, "Militias, the Second Amendment, and the State: Constitutional, Social, and Historical Implications," American Political Science Association, San Francisco, August 29-September 1, 1996.

Chair, "Roundtable on Teaching the Presidency," American Political Science Association, August 29-September 1, 1996.

Chair, "The Constitutionalism and Presidentialism of Louis Fisher," American Political Science Association, Washington, D.C., August 28-31, 1997.

Chair, "The President as Legislative Leader," American Political Science Association, Boston, September 3-6, 1998.

Chair, Roundtable on "Memo to the President," American Political Science Association, Atlanta, September 2-5, 1999.

Discussant, "Firearms in the U.S.," Midwest Political Science Association, Chicago, April 27-30, 2000.

Chair and discussant, Roundtable on "Is the Presidency Changed?" APSA, San Francisco, August 30-September 2, 2001.

Chair and discussant, "Presidential Use of Strategic Tools," APSA, Boston, August 29 - Sept. 1, 2002.

Discussant, "Executing the Constitution," APSA, Boston, August 29 - Sept. 1, 2002.

Chair, "Marketing the President," APSA, Philadelphia, August 28-31, 2003.

Discussant, "Media Coverage of the Presidency," APSA, Philadelphia, August 28-31, 2003.

Chair and discussant, "Does Presidential Leadership in Foreign Policy Matter?" APSA, Chicago, September 2-5, 2004.

Roundtable member, "The Ins and Outs of Obtaining a Book Contract," APSA, Chicago, September 2-5, 2004.

Discussant, "Presidential Power: Lessons From the Past," APSA, Washington, D.C., September 1-4, 2005.

Chair and Discussant, "The Unitary Executive in a Separated System," APSA, Philadelphia, August 31-September 3, 2006.

Panel chair, "The Culpability of Congress," Conference on Presidential Power in America: The Constitution, the Defense of a Nation and the National Ethos, Massachusetts School of Law Conference Series, Andover, MA, October 14-15, 2006.

Panel chair, "Keeping the Modern Presidency in Check and Balance," APSA, Chicago, August 30-September 2, 2007.

Discussant, "Presidential Endings: George W. Bush and the Final Two Years," APSA,

Chicago, August 30-September 2, 2007.

Discussant, "Staffing and Decisionmaking in the White House," APSA, Boston, August 28-31, 2008.

Panel Chair, "Early Assessments of the Obama Presidency," APSA, Washington, D.C., September 2-5, 2010.

Discussant, "Historical Perspectives on the Presidency," APSA, Chicago, August 29-Sept. 1, 2013.

Discussant, "Politics and Presidential Travel," APSA, Washington, D.C., August 27-31, 2014.

Discussant, "The Obama Presidency and Constitutional Law," APSA, San Francisco, Sept. 3-6, 2015.

Discussant, "Presidents, the Courts and the Law," APSA, Philadelphia, Sept. 1-4, 2016.

Discussant, "Executive Power and Democratic Functioning in the Trump Era," APSA, Boston, MA, August 30-September 2, 2018.

Panel chair, "Assessing the Presidency of Donald Trump," APSA, Washington, DC, August 29-September 1, 2019.

Roundtable, "Gun Law, Politics, and Policy," Midwest Political Science Association, April 17, 2021 (virtual).

Roundtable, "Guns and the Political Moment: Political Violence, Self-Defense, and Reckoning with Race," Midwest Political Science Association, Chicago, April 7, 2022.

Book Reviews:

The American Presidency, by Richard M. Pious, reviewed in The Journal of Politics, November, 1979.

The Politics of Mistrust, by Aaron Wildavsky and Ellen Tenenbaum, reviewed in Administrative Science Quarterly, December, 1981.

Review essay, The President as Policymaker, by Laurence E. Lynn and David DeF. Whitman, review essay in Administrative Science Quarterly, March, 1982.

PL94-142: An Act of Congress, by Erwin L. Levine and Elizabeth M. Wexler, reviewed in the American Political Science Review, June, 1982.

Pure Politics and Impure Science, by Arthur M. Silverstein, reviewed in Administrative Science Quarterly, June, 1984.

Review essay, The President's Agenda, by Paul Light, reviewed in Administrative Science Quarterly, September, 1984.

The Evolution of American Electoral Systems, by Paul Kleppner, et al., reviewed in the American Political Science Review, December, 1983.

A Case of Third Party Activism, by James Canfield, reviewed in Perspective, July-August, 1984.

Winners and Losers: Campaigns, Candidates and Congressional Elections, by Stuart Rothenberg, reviewed in the American Political Science Review, December, 1984.

The Political Presidency, by Barbara Kellerman, reviewed in Perspective, January-February, 1985.

Presidents and Promises, by Jeff Fishel, reviewed in the American Political Science Review, December, 1985.

The Elections of 1984, ed. by Michael Nelson, reviewed in Perspective, May/June, 1985.

Economic Conditions and Electoral Outcomes, by Heinz Eulau and Michael S. Lewis-Beck, reviewed in Perspective, May/June, 1986.

Presidential Transitions: Eisenhower Through Reagan, by Carl M. Brauer, in Perspective, January/February, 1987.

Religion and Politics in the United States, by Kenneth D. Wald, in Journal for the Scientific Study of Religion, September, 1988.

Abortion and Divorce in Western Law, by Mary Ann Glendon, in The Annals of the American Academy of Political and Social Science, September, 1988.

The American Political Economy, by Douglas Hibbs, in Perspective, Spring, 1988.

God in the White House, by Richard G. Hutcheson, Jr., in Perspective, Fall, 1988.

The Reagan Legacy, Charles O. Jones, ed., in Social Science Quarterly, June, 1989.

Dilemmas of Presidential Leadership From Washington Through Lincoln by Richard Ellis and Aaron Wildavsky, in Perspective, September, 1989.

Taming the Prince by Harvey Mansfield, Jr., in Governance, April, 1990.

Public Policy and Transit System Management, ed. by George M. Guess, in Perspective, Spring, 1991.

The Myth of Scientific Public Policy, by Robert Formaini, in Perspective, Winter, 1992.

The Bush Presidency: First Appraisals, ed. by Colin Campbell and Bert Rockman in Public Administration Review, May/June, 1992.

The Illusion of a Conservative Reagan Revolution, by Larry Schwab, in Policy Currents, May, 1992.

The Vital South: How Presidents Are Elected, by Earl Black and Merle Black, in Perspective, Fall, 1993.

The Presidential Pulse of Congressional Elections, by James E. Campbell, in The Journal of American History, March, 1995.

Out of Order, by Thomas Patterson, in Presidential Studies Quarterly, Summer, 1994.

Congress, the President, and Policymaking, by Jean Schroedel, in the American Political Science Review, December, 1994.

The President and the Parties, by Sidney Milkis, in Governance, January 1995.

The Myth of the Modern Presidency, by David K. Nichols, PRG Report, Spring, 1995.

The End of the Republican Era, by Theodore Lowi, The Journal of American History, December, 1995.

Strategic Disagreement: Stalemate in American Politics by John B. Gilmour, in Governance (9), 1996.

Rivals For Power: Presidential-Congressional Relations, by James Thurber, in American Political Science Review, March, 1997.

American Presidential Elections, ed. by Harvey Schantz, in Perspectives, Spring 1997.

The Power of Separation by Jessica Korn, in Congress & the Presidency, Spring 1997.

Strong Presidents by Philip Abbott, in Perspective, Fall 1997.

Other People's Money: Policy Change, Congress, and Bank Regulation, by Jeffrey Worsham, in Perspectives, Spring 1998.

A Third Choice, in Journal of American History, December 1998.

Politics, Power and Policy Making: The Case of Health Care Reform in the 1990s, by Mark Rushefsky and Kant Patel in Perspectives, Winter 1999.

The Paradoxes of the American Presidency, by Thomas Cronin and Michael Genovese, for the American Political Science Review, March 1999.

Republic of Denial, by Michael Janeway, for Perspectives, Spring 2000.

The Art of Political Warfare, by John Pitney, Rhetoric and Public Affairs, Summer 2001.

Arming America, by Michael Bellesiles, Congress Monthly, January/February 2002.

Gun Violence in America by Alexander DeConde, Law and Politics Book Review, August 2001; also in Historynewsnetwork.org, 8/01.

Presidents as Candidates, by Kathryn D. Tenpas, in Rhetoric and Public Affairs, Spring 2002.

The Trouble With Government, by Derek Bok, Perspectives, Spring 2002.

King of the Mountain, by Arnold M. Ludwig, Rhetoric and Public Affairs, Winter 2002.

Power, the Presidency, and the Preamble, by Robert M. Saunders, Presidential Studies Quarterly, December 2002.

Presidents, Parliaments, and Policy, ed. by Stephen Haggard and Mathew McCubbins, Perspectives, Winter 2003.

The Modern American Presidency, by Lewis L. Gould, Rhetoric and Public Affairs.

Watergate: The Presidential Scandal that Shook America, by Keith W. Olson, Perspectives, Summer 2003.

The Militia and the Right to Arms, or, How the Second Amendment Fell Silent, by H.

Richard Uviller and William G. Merkel, Journal of American History, March 2004.

Power Without Persuasion: The Politics of Direct Presidential Action, by William G. Howell, Perspectives on Politics, June 2004.

The George W. Bush Presidency: An Early Assessment, ed. By Fred Greenstein, Perspectives, Spring 2004.

The Invention of the United States Senate, by Daniel Wirls and Stephen Wirls, Perspectives, Summer 2004.

The Mythic Meanings of the Second Amendment, by David C. Williams, Law and Politics Book Review, April 2004.

Empowering the White House, by Karen M. Hult and Charles E. Walcott, Rhetoric and Public Affairs, Fall 2005.

Defining Americans: The Presidency and National Identity, by Mary E. Stuckey, Perspectives, Spring 2005.

Presidential Leadership: Rating the Best and Worst in the White House, ed. By James Taranto and Leonard Leo, Rhetoric and Public Affairs, Summer 2006.

A Well-Regulated Militia: The Founding Fathers and the Origins of Gun Control in America, by Saul Cornell, American Journal of Legal History, October 2006.

The Founders' Second Amendment: Origins of the Right to Bear Arms, by Stephen Halbrook, Law and Politics Book Review 18(October 2008).

Out of the Shadow: George H.W. Bush and the End of the Cold War, by Christopher Maynard, Journal of American History (September 2009).

Guns, Democracy, and the Insurrectionist Idea, by Joshua Horwitz, Law and Politics Book Review 19(June 2009).

Talking Together, by Lawrence Jacobs, Fay Lomax Cook, and Michael Delli Carpini, dailykos.com, posted June 20, 2009, with Glenn Altschuler.

Accidental Presidents, by Philip Abbott, Presidential Studies Quarterly, June 2010.

The Co-Presidency of Bush and Cheney, by Shirley Anne Warshaw, Congress and the Presidency, 2010.

Crisis and Command: The History of Executive Power from George Washington to George W. Bush, by John Yoo, Presidential Studies Quarterly (December 2010).

Declaring War: Congress, the President, and What the Constitution Does Not Say, by Brien Hallett, Law and Politics Book Review 22(November 2012).

Congress vs. the Bureaucracy: Muzzling Agency Public Relations, by Mordecai Lee, The Journal of American History (December 2012).

Arming and Disarming, by R. Blake Brown, Law and History Review (November 2013).

Reclaiming Accountability: Transparency, Executive Power, and the U.S. Constitution, by Heidi Kitrosser, Congress and the Presidency 42(2015).

The Six-Shooter State: Public and Private Violence in American Politics by Jonathan Obert and The Lives of Guns ed. by Jonathan Obert, Andrew Poe and Austin Sarat, Perspectives on Politics 17(September 2019).

The Toughest Gun Law in the Nation by James B. Jacobs and Zoe Fuhr, Criminal Law and Criminal Justice Books, March 2020.

Warped Narratives: Distortion in the Framing of Gun Policy by Melissa K. Merry, Perspectives on Politics 18(September 2020).

The Uses and Misuses of Politics: Karl Rove and the Bush Presidency by William G. Mayer, Presidential Studies Quarterly (December 2022).

Selected Media Appearances/Quotations:

NBC's "Today Show"; ABC's "Good Morning America" and "Network Nightly News"; PBS's "News Hour"; CNN's "Lou Dobbs," "NewsStand," "CNN & Co." CNN's HLN, and "Insight"; CNBC's "Upfront Tonight"; MSNBC's "Countdown with Keith Olbermann," "All In With Chris Hayes," "Ali Velshi," "Fresh Air With Terry Gross," "The Diane Rehm Show," 1A with Joshua Johnson, NPR; NHK Television (Japan); CGTN (China), documentary films "Guns and Mothers" (PBS, 2003), "Under the Gun" (Katie Couric Film Company, Epix, 2016), "The Price of Freedom" (Flatbush Pictures/Tribeca Films, 2021). Quoted in or by the New York Times, the Washington Post, Time Magazine, Newsweek, Der Spiegel (Germany), USA Today, the Los Angeles Times, the Wall Street Journal, the Christian Science Monitor, the Boston Globe, the Chicago Tribune, the Philadelphia Inquirer, the Miami Herald, Houston Chronicle, the St. Louis Post-Dispatch, San Francisco Chronicle, the Dallas Morning News, the Baltimore Sun, the Detroit Free Press, the Seattle Post-Intelligencer, Newsday, the Denver Post,

Kansas City Star, Dallas News, Pittsburgh Post-Gazette, New Orleans Times Picayune, Orlando Sentinel, Columbus Dispatch, Buffalo News, San Jose Mercury News, Albany Times-Union, St. Petersburg Times, Arkansas Democrat-Gazette, Newark Star-Ledger, Bergen Record, Congress Daily, The Hill, CQ Report, Rolling Stone, The Nation, Ladies Home Journal, the National Journal, The Spectator, Legal Times, Financial Times, Toronto Globe, al Jazeera, Reuters, Bloomberg News, Knight Ridder, AP, Gannett, Newhouse, Scripps Howard, McClatchy, Hearst, the BBC (Britain), CBC (Canada), the Voice of America, Radio Free Europe, ABC News Online, Fox News Online, National Public Radio, CBS Radio, media outlets in South Korea, India, Brazil, Denmark, Spain, France, Norway, Germany.

Regular panelist on “The Ivory Tower,” a weekly public affairs program broadcast on WCNY-TV, Syracuse, NY, from 2002-2021. A half hour discussion of the week’s events conducted by five academics from area colleges.

Professional Associations:

Scholars Strategy Network.
American Political Science Association.
Center for the Study of the Presidency.
Presidents and Executive Politics Section (formerly the Presidency Research Group),
APSA; served on Governing Board of PRG, 1991 to 2003.
New York Political Science Association.
Pi Sigma Alpha.
Phi Kappa Phi.

Teaching Areas:

American Government: courses taught include Introduction to American Government, The Legislative Process, Political Parties and Social Movements, The American Presidency, Media and Politics, Gun Control Politics and Policy, State and Local Government, Abortion Politics, Elections and American Politics, Media and War, internships in Washington, D.C., Albany, and Cortland County, Seminars on the Decline of Parties and Third Parties, American Institutions, Current Developments in American Politics, and Introduction to College Life.

Public Policy: courses taught include Introduction to Public Policy, Gun Policy. Areas of interest include policy theory, policy formation and decisionmaking, and policy implementation.

Teaching-Related Awards:

Three-time recipient of the SUNY Cortland Student Government Association Outstanding Faculty Award (the "DiGiusto Award"), 1987, 1991, and 2003, for "Outstanding Service to Students." (The only faculty member ever to win this award more than once.)

Other Professional Activities

External Reviewer, University of Michigan-Dearborn, Project to Expand Promotion and Tenure Guidelines (PTIE) to Inclusively Recognize Innovation and Entrepreneurial Impact, 2021.

Member, Howard Penniman Graduate Scholarship Selection Committee, Pi Sigma Alpha, 2018.

Member, Advisory Board of Pi Sigma Alpha Undergraduate Journal of Politics, 2014-2016.

Executive Council, Pi Sigma Alpha National Board, 2014-18.

Fund and organizing leader for American Political Science Association's new Distinguished Teaching Award, 2011-12.

Chair, Presidency Research Group Task Force on Membership and Recruitment, 2007-08.

Chair, Richard E. Neustadt Award Committee for Best Book on the Presidency published in 2005, Presidency Research Group, 2006.

President, Presidency Research Group, American Political Science Association, 2001-2003; Vice-President 1999-2001.

Chair, Best Paper Award Committee, Presidency Research Group, American Political Science Association, for 1991 and 1992 conferences.

Member, Governing Board of the Presidency Research Group of the American Political Science Association, 1991-2003.

Editor, PRG Report, 1993-1997.

Board of Editors, State University of New York Press, 1993-1996; 1997-2000. Board Chair, 1998-2000.

Member, Leonard D. White Award Committee for Best Dissertation in Public Administration, American Political Science Association, 1995.

Conference Organizing Committee, "Presidential Power: Forging the Presidency for the 21st Century," Columbia University, November 15-16, 1996.

Chair, E.E. Schattschneider Award Committee, best doctoral dissertation in American Politics, American Political Science Association, 1997.

Secretary/Treasurer, Presidency Research Group, 1997-99.

Book and article reviews for Houghton Mifflin, Cengage Learning, Random House, McGraw-Hill, St. Martins, W.W. Norton, Oxford University Press, Cambridge University Press, University of Chicago Press, University of California Press, Princeton University Press, Cornell University Press, UNC Press, Pearson Longman, Allyn & Bacon, Palgrave/Macmillan, University of New Mexico Press, Texas A&M University Press, Chatham House, CQ Press, HarperCollins, SUNY Press, Thompson Wadsworth, University of Michigan Press, University of Missouri Press, Westview Press, Brookings Institution, Rowman and Littlefield, Routledge, University of Alabama Press, American Political Science Review, PS, Comparative Politics, American Journal of Political Science, Policy Studies Journal, Policy Studies Review, Political Science Quarterly, the Journal of Politics, Western Political Quarterly, Polity, Social Science Quarterly, Political Behavior, American Politics Quarterly, Political Communication, Legislative Studies Quarterly, Government and Policy, Congress and the Presidency, Social Science Journal, Journal of Policy History, Political Research Quarterly, Presidential Studies Quarterly, Politics and Policy, and the National Science Foundation.

Selected Community Service

Administrative Law Judge/Hearing Officer for Cortland County Board of Health, 1994-present; for Tompkins County, 1997-present; for Chenango County, 1997-present; for Madison County, 2006-2021.

Member, City of Cortland Planning Commission, 2009-2012.

Chair, SUNY Press Board of Editors, 1998-2000 (board member 1993-96, 1997-2000).

Board President, Cortland County Arts Council, 1989-1990 (board member, 1987-1990).

Chair, Homer Zoning Board of Appeals, 1995-1997; board member 1988-1997.

Board member, Cortland County Landmark Society, 1989-1995.

Chair, Planning Committee on Codes and Safety for the village of Homer's Odyssey 2010 Project, 1996.

EXHIBIT B

FIREARM HARDWARE RESTRICTIONS TABLE
(YEARS OF ENACTMENT)¹

STATE ²	TRAP GUNS ³	CONCEALED CARRY ⁴	AUTOMATIC FIREARMS	SEMI-AUTOMATIC FIREARMS	AMMUNITION FEEDING DEVICES/ FIRING LIMITS
Alabama		1839, 1841			
Alaska		1896			
Arizona		1889			
Arkansas		1820,1837			
California		1850, 1864	1927, 1933		1927, 1933
Colorado		1862			
Connecticut		1890, 1923			
Delaware		1852	1931		
District of Columbia		1857, 1871	1932	1932	1932
Florida		1887	1913 ⁵ , 1933		
Georgia		1837			
Hawaii		1913	1933		1933
Idaho		1909			
Illinois		1881	1931	1931 [†]	1931
Indiana		1820	1927, 1929		
Iowa		1882, 1887, 1897, 1929	1927		
Kansas		1901	1933		
Kentucky		1812, 1813			
Louisiana		1813	1932	1932 [†]	1932
Maine		1840			
Maryland	1910	1872	1927		
Massachusetts		1751	1927	1927	1927

Michigan	1875, 1931	1887	1927, 1929	1927, 1929	1927
Minnesota	1873, 1903	1881	1933	1933	1933
Mississippi		1878			
Missouri	1891 ⁶	1873	1929		1929
Montana		1864, 1865			
Nebraska		1881	1929		
Nevada		1881, 1925			
New Hampshire	1915	*7			
New Jersey	1771	1686	1927, 1934		1920, 1927
New Mexico		1852, 1853			
New York	1870 ⁸	1891	1931, 1933		
North Carolina		1792			1917
North Dakota	1891, 1895	1895	1931		1931
Ohio		1859	1933	1933	1933
Oklahoma		1890			
Oregon	1925	1853	1933		1933
Pennsylvania		1851	1929		1929
Rhode Island	1890, 1892	1893	1927	1927	1927
South Carolina	1855, 1931	1880	1934	1934 [†]	1934
South Dakota	1909	1877	1933	1933	1933
Tennessee		1821			
Texas		1870	1933		1933
Utah	1865, 1901	1877, 1888			
Vermont	1884, 1912	1895, 1897	1923		1923
Virginia		1794, 1838	1934	1934	1934
Washington	1909	1881	1933		1933
West Virginia		1870	1925		
Wisconsin	1872, 1921	1858	1929, 1933		1933
Wyoming		1876	1933		

Total Laws	24	65	39	8–11	25
------------	----	----	----	------	----

SOURCE: Duke Law, Duke Center for Firearms Law, Repository of Historical Gun Laws,
<https://firearmslaw.duke.edu/repository/search-the-repository/>

† Ambiguous law that could apply to semi-automatic in addition to automatic firearms.

¹ Further research may yield additional laws regulating firearm hardware.

² In addition to state laws, this chart provides the year of enactment of local ordinances adopted within the states.

³ Sometimes trap guns were also referred to as “infernal machines.”

⁴ These laws prohibited the concealed carrying of certain enumerated weapons or types of weapons. The early laws restricted general weapons carrying, whether concealed or open.

⁵ “It shall, at any time, be unlawful to hunt wild game in Marion County with guns—known as Automatic guns.”

⁶ Chillicothe, Mo.: “George Dowell, a young farmer, was fined \$50 under an old law for setting a trap-gun. Dowell set the gun in his corn-crib to catch a thief, but his wife was the first person to visit the crib and on opening the door was shot dead.” “Shot by a Trap-Gun,” South Bend Tribune, Feb. 11, 1891, <https://bit.ly/3CtZsfk>.

⁷ Up to 2010, New Hampshire had this law on the books: “159:16 Carrying or Selling Weapons. Whoever, except as provided by the laws of this state, sells, has in his possession with intent to sell, or carries on his person any stiletto, switch knife, blackjack, dagger, dirk-knife, slung shot, or metallic knuckles shall be guilty of a misdemeanor; and such weapon or articles so carried by him shall be confiscated to the use of the state.” In 2010, the law was amended when it enacted HB 1665 to exclude stilettos, switch knives, daggers, and dirk-knives. Compare N.H. Rev. Stat. § 159:16 with 2010 New Hampshire Laws Ch. 67 (H.B. 1665).

⁸ New York City, NY: A burglar was killed by a gun-trap set by a shopkeeper at 301 East 23rd St. A jury concluded that the burglar’s death was caused by the trap-gun. The article notes: “As there is a statute against the use of such infernal machines, which might cause loss of life to some innocent person, the jury censured

Agostino.” After the verdict the man continued to be held under \$2000 bail. “The Man Trap,” The Buffalo Commercial, Nov. 1, 1870; from the N.Y. Standard, Oct. 29, 1870, <https://bit.ly/3SDv2Nf>.

EXHIBIT C

DANGEROUS WEAPONS RESTRICTIONS
(YEARS OF ENACTMENT)

STATE ¹	BOWIE KNIVES	Bludgeon	Billy/Billie Clubs	Clubs	Slung Shot	Sand Bag Sand Club	Pistols	Any Concealed /Deadly/Dan gerous Weapon
Alabama	1837,1839, 1841,1867, 1876,1877, 1879,1892			1805	1873		1839, 1841	
Alaska	1896 [†]				1896-99		1896	1896
Arizona	1867,1889, 1901				1873, 1889 1893, 1901		1889	1867
Arkansas	1871, 1875			1835	1871		1820, 1837	
California	1855, 1896	1849, 1853, 1876	1917, 1923		1864, 1923	1917, 1923	1850, 1864	1849
Colorado	1862,1867, 1877, 1881	1876			1886		1862	1862
Connecticut	1890 [†]				1890		1890, 1923	
Delaware	1881 [†]			1797			1852	
District of Columbia	1858,1871, 1892				1871		1857, 1871	

¹ In addition to state laws, this chart provides the year of enactment of local ordinances adopted within the states.

Florida	1835, [†] 1838 ,1847,1868 ,1893 [†]		1868,1888		1868, 1888		1887	
Georgia	1837,1860, 1873	1816			1860		1837	
Hawaii	1852, 1913				1852, 1913		1913	
Idaho	1864 [†] 1875, 1879, 1909	1875			1879		1909	1864
Illinois	1876, 1881	1845			1881, 1893		1881	
Indiana	1859			1804, 1855, 1881, 1905	1875, 1905		1820	1831
Iowa	1882,1887, 1900		1882		1882	1887, 1900	1882, 1887, 1897, 1929	
Kansas	1862,1863 1868,1883, 1887		1862, 1887		1883, 1887, 1899		1901	
Kentucky	1859			1798	1859		1812, 1813	
Louisiana	1870						1813	1813, 1842, 1870
Maine	1840,1841, 1884 [†]			1786			1840	1841
Maryland	1872,1886, 1888, 1890	1809, 1874, 1886	1872, 1874 1884, 1886 1890, 1927		1886	1890	1872	
Massachusetts	1836 [†]		1927	1750	1850, 1927		1751	
Michigan	1891	1927, 1929	1887, 1891, 1927, 1929	1913	1887, 1891, 1929	1887, 1891, 1927, 1929	1887	
Minnesota	1882				1882, 1888	1888	1881	1882
Mississippi	1837,1838, 1878			1799, 1804	1878		1838,1878	
Missouri	1871,1897, 1917, 1923		1871, 1897, 1923	1818	1883, 1888, 1897, 1917		1873	

Montana	1864,1879, 1885	1887					1864, 1865	1888
Nebraska	1877,1890, 1899	1858	1872, 1890, 1899		1890		1881	
Nevada	1873	1872			1881		1881, 1925	
New Hampshire								
New Jersey	1871,1905 [†]	1799, 1877, 1927	1871, 1927		1871, 1873, 1927	1871, 1927	1686	
New Mexico	1852 [†] 1853, 1859,1864 1887	1887			1853, 1859, 1869, 1887		1852, 1853	
New York	1866,1885, 1911 [†]	1911, 1913, 1931	1866, 1881, 1884, 1885, 1900, 1911, 1913, 1931	1664	1866	1866, 1881, 1900, 1911, 1913, 1931	1891	
North Carolina	1840,1856, 1858,1860, 1879				1879		1792, 1840	
North Dakota	1895,1915 [†]	1915	1915		1895	1915	1895	
Ohio	1859,1880, 1890						1859	1788, 1859, 1880
Oklahoma	1890,1891, 1903		1890, 1891		1890, 1891, 1903	1890	1890	
Oregon	1885 [†]		1898, 1917		1885, 1917	1917	1853	
Pennsylvania	1897		1897		1851		1851	
Rhode Island	1893,1896, 1908		1893, 1908		1893, 1896		1893	
South Carolina	1880, 1923				1880		1880	
South Dakota	1903 [†]				1877, 1903		1877	
Tennessee	1838,1856, 1863,1867,				1879, 1882, 1893		1821	

	1871,1881, 1893							
Texas	1856,1871, 1879,1897			1899	1871, 1879, 1889, 1897, 1899		1870	
Utah	1877						1877, 1888	
Vermont	1892,1895 [†]				1895		1895, 1897	
Virginia	1838,1887			1792	1887		1794	
Washington	1854, 1859 1869						1881	1854, 1859, 1869, 1881, 1883, 1892, 1896, 1897
West Virginia	1870,1882, 1891, 1925		1870, 1882, 1891, 1925		1891		1870	
Wisconsin	1883, 1896				1883, 1888		1858	1883
Wyoming	1884,1890 1899,1925	1876, 1893			1884, 1890, 1899		1876	
Total Laws	136	25	46	17	79	21	66	24

SOURCE: <https://firearmslaw.duke.edu/repository/search-the-repository/>

[†] State laws that prosecuted/regulated/barred knives more generally without specifically mentioning Bowie knives.

EXHIBIT D

MACHINE GUN AND SEMI-AUTOMATIC FIREARMS LAWS¹

CALIFORNIA:

1927 Cal. Stat. 938, An Act to Prohibit the Possession of Machine Rifles, Machine Guns and Submachine Guns Capable of Automatically and Continuously Discharging Loaded Ammunition of any Caliber in which the Ammunition is Fed to Such Guns from or by Means of Clips, Disks, Drums, Belts or other Seperable Mechanical Device, and Providing a Penalty for Violation Thereof, ch. 552, §§ 1-2.

§ 1. . . . [E]very person, firm or corporation, who within the State of California possesses any firearm of the kind commonly known as a machine gun shall be guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison not to exceed three years or by a fine not to exceed five thousand dollars or by both such fine and imprisonment. Provided, however that nothing in this act shall prohibit police departments and members thereof, sheriffs, and city marshals or the military or naval forces of this state or of the United States from possessing such firearms for official use in the discharge of their duties.

§ 2. The term machine gun as used in this act shall be construed to apply to and include all firearms known as machine rifles, machine guns or submachine guns capable of discharging automatically and continuously loaded ammunition of any caliber in which the ammunition is fed to such gun from or by means of clips, disks, drums, belts or other separable mechanical device.

1933 Cal. Stat. 1169

§ 2. [E]very person, firm or corporation, who within the State of California sells, offers for sale, possesses or knowingly transports any firearms of the kind commonly known as a machine gun . . . is guilty of a public offense...

§ 3. The term machine gun as used in this act shall be construed to apply to and include all firearms known as machine rifles, machine guns, or submachine guns capable of discharging automatically and continuously loaded ammunition of any caliber in which the ammunition is fed to such gun from or by means of clips, discs, drums, belts or other separable mechanical device and all firearms which are automatically fed after each discharge from or by means of clips, discs, drums,

¹ Further research may yield additional laws regulating firearm hardware.

belts or other separable mechanical device having a capacity greater than ten cartridges.

1933 Cal. Stat. 1169

§ 2. [E]very person, firm or corporation, who within the State of California sells, offers for sale, possesses or knowingly transports any firearms of the kind commonly known as a machine gun ... is guilty of a public offense...

§ 3. The term machine gun as used in this act shall be construed to apply to and include all firearms known as machine rifles, machine guns, or submachine guns capable of discharging automatically and continuously loaded ammunition of any caliber in which the ammunition is fed to such gun from or by means of clips, discs, drums, belts or other separable mechanical device and all firearms which are automatically fed after each discharge from or by means of clips, discs, drums, belts or other separable mechanical device having a capacity greater than ten cartridges.

DELAWARE:

1931 Del. Laws 813, An Act Making it Unlawful for any Person or Persons Other than the State Military Forces or Duly Authorized Police Departments to have a Machine Gun in his or their Possession, and Prescribing a Penalty for Same, ch. 249, § 1.

On and after the passage and approval of this Act it is and shall be unlawful for any person or persons other than the State Military Forces or duly authorized Police Departments to have a machine gun in his or their possession, within the State of Delaware. Any person or persons convicted under the provisions of this Act shall be deemed guilty of a felony and shall be punished by either fine or imprisonment, or both, in the discretion of the Court

DISTRICT OF COLUMBIA:

District of Columbia 1932:

1932, Public-No. 275-72D Congress

CHAPTER 465

H.R. 8754

AN ACT To Control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties to prescribe rules of evidence, and for other purposes.

DEFINITIONS

SECTION 1. "Pistol," as used in this Act, means any firearm with a barrel less than twelve inches in length. "Sawed-off shotgun" as used in this Act, means any shotgun with a barrel less than twenty inches in length. "Machine gun," as used in this Act, means any firearm which shoots automatically or semiautomatically more than twelve shots without reloading. . . .

SEC. 2. If any person shall commit a crime of violence in the District of Columbia when armed with or having readily available any pistol or other firearm, he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than five years; upon a second conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than ten years; upon a third conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than fifteen years; upon a fourth or subsequent conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for an additional period of not more than thirty years.

PERSONS FORBIDDEN TO POSSESS CERTAIN FIREARMS

SEC. 3. No person who has been convicted in the District of Columbia or elsewhere of a crime of violence shall own or have in his possession a pistol, within the District of Columbia.

CARRYING CONCEALED WEAPONS

SEC. 4. No person shall within the District of Columbia carry concealed on or about his person, except in his dwelling house or place of business or on other land possessed by him, a pistol, without a license therefor issued as hereinafter provided, or any deadly or dangerous weapon.

EXCEPTIONS

SEC. 5. The provisions of the preceding section shall not apply to marshals, sheriffs, prison or jail wardens, or their deputies, policemen or other duly appointed law -enforcement officers, or to members of the Army, Navy, or Marine Corps of the United States or of the National Guard or Organized Reserves when on duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States, provided such members are at or are going to or from their places of assembly or target practice, or to officers or employees of the United States duly authorized to carry a concealed pistol, or to any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person having in his possession, using, or carrying a pistol in the usual or ordinary course of such business or to any person while carrying a pistol unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place

of repair or back to his home or place of business or in moving goods from one place of abode or business to another.

ISSUE OF LICENSES TO CARRY

SEC. 6. The superintendent of police of the District of Columbia may, upon the application of any person having a bona fide residence or place of business within the District of Columbia or of any person having a bona fide residence or place of business within the United States and a license to carry a pistol concealed upon his person issued by the lawful authorities of any State or subdivision of the United States, issue a license to such person to carry a pistol within the District of Columbia for not more than one year from date of issue, if it appears that the applicant has good reason to fear injury to his person or property or has any other proper reason for carrying a pistol and that he is a suitable person to be so licensed. The license shall be in duplicate, in form to be prescribed by the Commissioners of the District of Columbia and shall bear the name, address, description, photograph, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, and the duplicate shall be retained by the superintendent of police of the District of Columbia and preserved in his office for six years.

SEC. 7. No person shall within the District of Columbia sell any pistol to a person who he has reasonable cause to believe is not of sound mind, or is a drug addict, or is a person who has been convicted in the District of Columbia or elsewhere of a crime of violence or, except when the relation of parent and child or guardian and ward exists, is under the age of eighteen years.

TRANSFERS REGULATED

SEC. 8. No seller shall within the District of Columbia deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, except in the case of sales to marshals, sheriffs, prison or jail wardens or their deputies, policemen, or other duly appointed law enforcement officers, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in duplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model, and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in the District of Columbia or elsewhere of a crime of violence. The seller shall, within six hours after such application, sign and attach his address and deliver one copy to such person or persons as the superintendent of police of the District of Columbia may designate, and shall retain the other copy for six years. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the persons designated in section

14 hereof as entitled to possess the same, and then only after permission to make such sale has been obtained from the superintendent of police of the District of Columbia. This section shall not apply to sales at wholesale to licensed dealers.

DEALERS TO BE LICENSED

SEC. 9. No retail dealer shall within the District of Columbia sell or expose for sale or have in his possession with intent to sell, any pistol, machine gun, sawed - off shotgun, or blackjack without being licensed as hereinafter provided. No wholesale dealer shall, within the District of Columbia, sell, or have in his possession with intent to sell, to any person other than a licensed dealer, any pistol, machine gun, sawed -oil shotgun, or blackjack.

DEALERS' LICENSES, BY WHOM GRANTED AND CONDITIONS THEREOF

SEC. 10. The Commissioners of the District of Columbia may, in their discretion, grant licenses and may prescribe the form thereof, effective for not more than one year from date of issue, permitting the licensee to sell pistols, machine guns, sawed-off shotguns, and blackjacks at retail within the District of Columbia subject to the following conditions in addition to those specified in section 9 hereof, for breach of any of which the license shall be subject to forfeiture and the licensee subject to punishment as provided in this Act. 1. The business shall be carried on only in the building designated in the license. 2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can be easily read. 3. No pistol shall be sold (a) if the seller has reasonable cause to believe that the purchaser is not of sound mind or is a drug addict or has been convicted in the District of Columbia or elsewhere of a crime of violence or is under the age of eighteen years, and (b) unless the purchaser is personally known to the seller or shall present clear evidence of his identity. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the persons designated in section 14 hereof as entitled to possess the same, and then only after permission to make such sale has been obtained from the superintendent of police of the District of Columbia. 4. A true record shall be made in a book kept for the purpose the form of which may be prescribed by the Commissioners, of pistols, machine guns, and sawed-off shotguns in the possession of the licensee, which said record shall contain the date of purchase, the caliber, make, model, and manufacturer's number of the weapon, to which shall be added, when sold, the date of sale. 5. A true record in duplicate shall be made of every pistol, machine gun, sawed-off shotgun, and blackjack sold, said record to be made in a book kept for the purpose, the form of which may be prescribed by the Commissioners of the District of Columbia and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other

and shall contain the date of sale, the name, address, occupation, color, and place of birth of the purchaser, and, so far as applicable, the caliber, make, model, and manufacturer's number of the weapon, and a statement signed by the purchaser that he has never been convicted in the District of Columbia or elsewhere of a crime of violence. One copy of said record shall, within seven days, be forwarded by mail to the superintendent of police of the District of Columbia and the other copy retained by the seller for six years. 6. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of said premises where it can readily be seen from the outside. No license to sell at retail shall be granted to anyone except as provided in this section.

FALSE INFORMATION FORBIDDEN

SEC. 11. No person, shall, in purchasing a pistol or in applying for a license to carry the same, or in purchasing a machine sawed-off shotgun, or blackjack within the District of Columbia, give false information or offer false evidence of his identity.

ALTERATION OF IDENTIFYING MARKS PROHIBITED

SEC. 12. No person shall within the District of Columbia change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark or identification on any pistol, machine gun, or sawed-off shotgun. Possession of any pistol, machine gun, or sawed-off shotgun upon which any such mark shall have been changed, altered, removed, or obliterated shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same within the District of Columbia: Provided, however, That nothing contained in this section shall apply to any officer or agent of any of the departments of the United States or the District of Columbia engaged in experimental work.

SEC. 13. This Act shall not apply to toy or antique pistols unsuitable for use as firearms.

SEC. 14. No person shall within the District of Columbia possess any machine gun, sawed-off shotgun, or any instrument or weapon of the kind commonly known as a blackjack, slung shot, sand club, sandbag, or metal knuckles, nor any instrument, attachment, or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms: Provided, however, That machine guns, or sawed-off shotguns, and blackjacks may be possessed by the members of the Army, Navy, or Marine Corps of the United States, the National Guard, or Organized Reserves when on duty, the Post Office Department or its employees when on duty, marshals, sheriffs, prison or jail wardens, or their deputies, policemen, or other duly appointed law -enforcement officers, officers or employees of the United States duly authorized to carry such weapons, banking institutions, public

carriers who are engaged in the business of transporting mail, money, securities, or other valuables, wholesale dealers and retail dealers licensed under section 10 of this Act.

PENALTIES

SEC. 15. Any violation of any provision of this Act for which no penalty is specifically provided shall be punished by a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

CONSTITUTIONALITY

SEC. 16. If any part of this Act is for any reason declared void, provision not to affect remainder, such invalidity shall not affect the validity of the remaining portions of this Act.

Approved, July 8, 1932.

https://www.loc.gov/resource/lisalvol.lisal_047/?sp=675&st=text&r=0.041,0.112,0.75,0.862,0

FLORIDA:

1913 Fla. 117, An Act to Regulate the Hunting of Wild Deer etc., § 8.

It shall, at any time, be unlawful to hunt wild game in Marion County with guns—known as Automatic guns.

1933 Fla. Laws 623, An Act to Prevent Throwing of Bombs and the Discharge of Machine Guns Upon, or Across Any Public Road in the State of Florida . . . , ch. 16111, § 1.

That it shall be unlawful for any person to throw any bomb or to shoot off or discharge any machine guns upon, across or along any road, street or highway in the State of Florida, or upon or across any public park in the State of Florida, or in, upon or across any public place where people are accustomed to assemble in the State of Florida, and the casting of such bomb or the discharge of such machine gun in, upon or across such public street, or in, upon or across such public park, or in, upon or across such public place, whether indoors or outdoors, including all theatres and athletic stadiums, with intent to do bodily harm to any person or with intent to do damage to the property of any person, shall be a felony and shall be punishable by death.

HAWAII:

1933 Haw. Special Sess. Laws 117, An Act . . . Regulating The Sale, Transfer And Possession Of Certain Firearms, Tear Gas And Ammunition: § 2.

Except as permitted under the provisions of this Act, no person, firm or corporation shall own, possess, sell, offer for sale or transport any firearm of the kind commonly known as a machine gun or any shell cartridge or bomb containing or capable of emitting tear gas or any other noxious gas. Provided, however, that nothing in this Act contained shall prohibit the sale to, purchase by, or possession of such firearms by any city and county, county, territorial or federal officer where such firearms are required for professional use in the discharge of his duties, nor to the transportation of such firearms for or on behalf of police departments and members thereof, sheriffs, or the military or naval forces of this Territory or of the United States and “Provided, further that nothing in this Act shall prohibit police departments and members thereof, sheriffs, or the military or naval forces of the territory or of the United States from possessing or transporting such shells, cartridges or bombs for professional use in the discharge of their duties. “The term ‘shell, cartridge or bomb’, as used in this Act shall be construed to apply to and include all shells, cartridges, or bombs capable of being discharged or exploded through or by the use of percussion caps, fuses, electricity, or otherwise, when such discharge or explosion will cause or permit the release or emission of tear gases. The term ‘machine gun’ as used in this Act shall be construed to apply to and include machine rifles, machine guns and submachine guns capable of automatically and continuously discharging loaded ammunition of any caliber in which the ammunition is fed to such guns from or by means of clips, disks, drums, belts or other separable mechanical device.”

1933 Haw. Sess. Laws 36, An Act Regulating the Sale, Transfer, and Possession of Firearms and Ammunition, § 2.

Definitions. “Firearm” as used in this Act means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon and sub-machine guns. The specific mention herein of certain weapons does not exclude from the definition other weapons operated by explosives. “Crime of violence” as used in this Act means any of the following crimes, namely: murder, manslaughter, rape, kidnapping, robbery, burglary, and those certain crimes set forth in Sections 4130 and 4131 of said Revised Laws. “Pistol” or “revolver” as used in this Act, means and includes any firearm of any shape whatsoever with barrel less than twelve inches in length and capable of discharging loaded ammunition or any noxious gas. “Person” as used in this Act includes

individuals, firms, corporations and copartnerships, and includes wholesale and retail dealers.

ILLINOIS:

1931 Ill. Laws 452-53, An Act to Regulate the Sale, Possession and Transportation of Machine Guns, §§ 1-2.

§ 1. For purposes of this Act the term “machine gun” applies to and includes all firearms commonly known as machine rifles, machine guns and sub-machine guns of any calibre whatsoever, capable of automatically discharging more than eight cartridges successively without reloading, in which the ammunition is fed to such gun from or by means of clips, disks, belts, or other separable mechanical device. The term “manufacturer” shall apply to and include all persons dealing with machine guns as merchandise.

§ 2. It is unlawful for any person to sell, keep or offer for sale, loan or give away, purchase, possess, carry or transport any machine gun within this State, except that 1. Sheriffs, constables, marshals, police officers and other duly appointed peace officers may purchase, possess, carry and transport machine guns. 2. The provisions of this Act shall not apply to the Army, Navy or Marine Corps of the United States, the National Guard, and organizations authorized by law to purchase or receive machine guns from the United States, or from this State, and the members of such Corps, National Guard and organizations while on duty, may possess, carry and transport machine guns. 3. Persons, organizations or institutions possessing war relics may purchase and possess machine guns which are relics of any war in which the United States was involved, may exhibit and carry such machine guns in the parades of any military organization, and may sell, offer to sell, loan or give such machine guns to other persons, organizations or institutions possessing war relics. 4. Guards or messengers employed by common carriers, banks and trust companies, and pay-roll guards or messengers may possess and carry machine guns while actually employed in and about the shipment, transportation or delivery, or in the guarding of any money, treasure, bullion, bonds or other thing of value, and their employers may purchase or receive machine guns and keep them in their possession when such guns are not being used by such guards or messengers 5. Manufacturers and merchants may sell, keep or offer for sale, loan or give away, purchase, possess and transport, machine guns, in the same manner as other merchandise except as hereinafter provided, and common carriers may possess and transport unloaded machine guns, as other merchandise.

1931 Ill. Laws 453, An Act to Regulate the Sale, Possession and Transportation of Machine Guns, § 4.

Every manufacturer or merchant shall keep a register of all machine guns manufactured or handled by him. This register shall show the date of the sale, loan, gift, delivery or receipt of any machine gun, the name, address and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received, and the purpose for which the person to whom the machine gun was sold, loaned, given or delivered, purchased or obtained said machine gun. Upon demand, every manufacturer or merchant shall permit any sheriff or deputy sheriff, or any police officer to inspect his entire stock of machine guns, parts and supplies therefor, and shall produce the register herein required and all written permits to purchase or possess a machine gun, which he has retained and filed in his place of business for inspection by such officer.

1931 Ill. Laws 454, An Act to Regulate the Sale, Possession and Transportation of Machine Guns, § 7.

Any person committing or attempting to commit arson, assault, burglary, kidnapping, larceny, rioting, or robbery while armed with a machine gun shall be imprisoned in the penitentiary for his natural life, or for a term not less than five years.

INDIANA:

1927 Ind. Acts 469, Public Offenses—Ownership, Possession or Control of Machine Guns or Bombs—Penalty, ch. 156, § 1.

. . . [W]hoever shall be the owner of, or have in his possession, or under his control, in an automobile, or in any other way, a machine gun or bomb loaded with explosives, poisonous or dangerous gases, shall be deemed guilty of a felony, and upon conviction thereof, shall be imprisoned for a term of not less than one year nor more than five years.

1927 Ind. Acts 469, Operation of Machine Guns, Discharge of Bombs—Offense and Penalty:, ch. 156, § 2.

Whoever shall discharge, fire off, or operate any loaded machine gun, or whoever shall drop from an airplane, automobile, or from any building or structure, or who shall throw, hurl, or drop from ground or street, or keep in his possession and under his control any bomb filled with deadly or dangerous explosives, or dangerous or poisonous gases, shall be deemed guilty of a felony and upon conviction shall be imprisoned for a term of not less than two nor more than ten years.

1929 Ind. Acts 139, Criminal Offenses—Commission of or Attempt to Commit Crime While Armed with Deadly Weapon, ch.55, § 1.

Be it enacted by the general assembly of the State of Indiana, That any person who being over sixteen years of age, commits or attempts to commit either the crime of rape, robbery, bank robbery, petit larceny or grand larceny while armed with a pistol, revolver, rifle, shotgun, machine gun or any other firearm or any dangerous or deadly weapon, or while any other person present and aiding or assisting in committing or attempting to commit either of said crimes is armed with any of said weapons, shall be guilty of a separate felony in addition to the crimes above named and upon conviction shall be imprisoned for a determinate period of not less than ten years nor more than twenty years

IOWA:

1927 Iowa Acts 201, An Act to prohibit the Possession or Control of Machine Guns. . . ., §§ 1-2.

§ 1. No person, firm, partnership, or corporation shall knowingly have in his or its possession or under his or its control any machine gun which is capable of being fired from the shoulder or hip of a person, and by the recoil of such gun.

§ 2. No person, firm, partnership, or corporation shall do any act with the intent to enable any other person, firm, partnership, or corporation to obtain possession of such gun.

KANSAS:

1933 Kan. Sess. Laws 76, An Act Relating to Machine Guns and Other Firearms Making the Transportation or Possession Thereof Unlawful in Certain Cases, Providing for Search, Seizure and Confiscation Thereof in Certain Cases, Relating to the Ownership and Registration of Certain Firearms, and Providing Penalties for the Violation of this Act, ch. 62, §§ 1-3.

§ 1. That it shall be unlawful for any person, firm, or corporation other than a sheriff or other peace officer or any military unit of the state or of the United States or any common carrier for hire, to transport or have in his possession or under his control a firearm known as a machine rifle, machine gun, or submachine gun: Provided, That banks, trust companies or other institutions or corporations subject to unusual hazard from robbery or holdup, may secure permits from the sheriff of the county in which they are located for one or more of their employees to have such firearms: Provided further, That museums, American Legions posts, and other

similar patriotic organizations may possess such firearms, when no usable as a weapon and when possessed as a curiosity, ornament or keepsake.

§ 2. That any person violating the provisions of the preceding section shall be guilty of a felony, and upon conviction shall be subject to imprisonment in the state penitentiary for not less than one year nor more than five years.

§ 3. Upon complaint being made on oath to any officer authorized to issue process for the apprehension of offenders that a firearm or firearms known as a machine rifles, machine guns or sub-machine guns as described in this act, are concealed in any particular house or place, and if such magistrate shall be satisfied that there are reasonable grounds for believing same to be true, he shall issue a warrant to search the house or place for such firearms

LOUISIANA:

1932 La. Acts 337-38, An Act to Regulate the Sale, Possession and Transportation of Machine Guns, and Providing a Penalty for a Violation Hereof . . . , §§ 1-2.

§ 1. . . . for the purpose of this Act the term “machine gun” applies to and include all firearms commonly known as machine rifles, machine guns and sub-machine guns of any caliber whatsoever, capable of automatically discharging more than eight cartridges successively without reloading, in which the ammunition is fed to such gun from or by means of clips, disks, belts, or other separable mechanical device.

§ 2. It is unlawful for any person to sell, keep or offer for sale, loan or give away, purchase, possess, carry or transport any machine gun within this State, except that (exceptions for law enforcement, military, war relics, museums, guards, messengers)

MARYLAND:

1927 Md. Laws 156, § 388-B.

That not person, persons house, company, association or body corporate, shall deposit, keep or have in his, her, their or its possession any spirituous or fermented liquors, or intoxicating drinks of any kind whatsoever, or any article used or sold as a beverage in the composition of which, whiskey, brandy, high wines or alcoholic, spirituous or fermented liquors shall be an ingredient or ingredients, in any automobile or other vehicle in which any device for the prevention or arrest or apprehension of said motor vehicle, or the occupants thereof of the type commonly known as a smoke screen is carried, whether the said device be attached as a part of said motor vehicle in which any gun, pistol, revolver, rifle machine gun, or other

dangerous or deadly weapon of any kind whatsoever is carried, whether in said automobile or vehicle, or on the person of any occupant of the same.

MASSACHUSETTS:

1927 Mass. Acts 416, An Act Relative to Machine Guns and Other Firearms, ch. 326, § 5 (amending §10)

. . . Whoever, except as provided by law, carries on his person, or carries on his person or under his control in a vehicle, a pistol or revolver, loaded or unloaded, or possesses a machine gun as defined in section one hundred and twenty-one of chapter one hundred and forty... or whoever so carries any stiletto, dagger, dirk knife, slung shot, metallic knuckles or sawed off shotgun, or whoever, when arrested upon a warrant for an alleged crime or when arrested while committing a crime or a breach or disturbance of the public peace, is armed with, or has on his person, or has on his person or under his control in a vehicle, a billy or dangerous weapon other than those herein mentioned, shall be punished by imprisonment for not less than six months nor more than two and a half years in a jail . .

1927 Mass. Acts 413, An Act Relative to Machine Guns and Other Firearms, ch. 326, §§ 1-2 (amending §§ 121, 123)

§ 1. In sections one hundred and twenty-two to one hundred and twenty-nine, inclusive, “firearms” includes a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of barrel, not including any revolving, detachable or magazine breach, does not exceed twelve inches, and a machine gun, irrespective of the length of the barrel. Any gun of small arm calibre designed for rapid fire and operated by a mechanism, or any gun which operates automatically after the first shot has been fired, either by gas action or recoil action, shall be deemed to be a machine gun for the purposes of said sections, and of sections one hundred and thirty-one and one hundred and thirty one B. . .

§ 2. . . Eighth, That no pistol or revolver shall be sold, rented or leased to a person who has not a permit, then in force, to purchase, rent or lease the same issued under section one hundred and thirty-one A, and that no machine gun shall be sold, rented or leased to a person who has not a license to possess the same issued under section one hundred and thirty-one. . .

MICHIGAN:

1927 Mich. Pub. Acts 888-89, An Act to Regulate and License the Selling, Purchasing, Possessing and Carrying of Certain Firearms, § 3.

It shall be unlawful within this state to manufacture, sell, offer for sale, or possess any machine gun or firearm which can be fired more than sixteen times without reloading, or any muffler, silencer or device for deadening or muffling the sound of a discharged firearm, or any bomb or bombshell, or any blackjack, slung shot, billy, metallic knuckles, sandclub, sandbag or bludgeon. Any person convicted of a violation of this section shall be guilty of a felony and shall be punished by a fine not exceeding one thousand dollars or imprisonment in the state prison not more than five years, or by both such fine and imprisonment in the discretion of the court. . . .

1929 Mich. Pub. Acts 529, An Act to Regulate and License the Selling, Purchasing, Possessing and Carrying of Certain Firearms, § 3.

It shall be unlawful within this state to manufacture, sell, offer for sale or possess any machine gun or firearm which can be fired more than sixteen times without reloading or any muffler, silencer, or device for deadening or muffling the sound of a discharged firearm, or any bomb, or bomb shell, blackjack, slung shot, billy, metallic knuckles, sand club, sand bag, or bludgeon or any gas ejecting device, weapon, cartridge, container, or contrivance designed or equipped for or capable of ejecting any gas which will either temporarily or permanently disable, incapacitate, injure or harm any person with whom it comes in contact.

MINNESOTA:

1933 Minn. Laws 231-33, An Act Making It Unlawful to Use, Own, Possess, Sell, Control or Transport a “Machine Gun”, as Hereinafter Defined, and Providing a Penalty for the Violation Thereof, ch. 190, §§ 1-3.

§ 1. Definitions. (a) Any firearm capable of loading or firing automatically, the magazine of which is capable of holding more than twelve cartridges, shall be a machine gun within the provisions of the Act. (b) Any firearm capable of automatically reloading after each shot is fired, whether firing singly by separate trigger pressure or firing continuously by continuous trigger pressure; which said firearm shall have been changed, altered or modified to increase the magazine from the original design as manufactured by the manufacturers thereof, or by the addition thereto of extra and/or longer grips or stocks to accommodate such extra capacity, or by the addition, modification and/or attachment thereto of any other device capable of increasing the magazine capacity thereof, shall be a machine gun

within the provisions of this Act. (c) A twenty-two caliber light sporting rifle, capable of firing continuously by continuous trigger pressure, shall be a machine gun within the provisions of this Act. But a twenty-two caliber light sporting rifle, capable of automatically reloading but firing separately by separate trigger pressure for each shot, shall not be a machine gun within the provisions of this Act and shall not be prohibited hereunder, whether having a magazine capacity of twelve cartridges or more. But if the same shall have been changed, altered, or modified, as prohibited in section one (b) hereof, then the same shall be a machine gun within the provisions of this Act.

§ 2. Application. This Act shall not apply to sheriffs, coroners, constables, policemen or other peace officers, or to any warden, superintendent or head keeper of any prison, penitentiary, county jail or other institution for retention of any person convicted or accused of crime, while engaged in the discharge of official duties, or to any public official engaged in the enforcement of law; nor to any person or association possessing a machine gun not usable as a weapon and possessed as a curiosity, ornament or keepsake; when such officers and persons and associations so excepted shall make and file with the Bureau of Criminal Apprehension of this state within 30 days after the passage of this Act, a written report showing the name and address of such person or association and the official title and position of such officers . . .

§ 3. Machine guns prohibited. Any person who shall own, control, use, possess, sell or transport a machine gun, as herein defined, in violation of this Act, shall be guilty of a felony.

MISSOURI:

1929 Mo. Laws 170, Crimes and Punishment, Prohibiting the Sale, Delivery, Transportation, Possession, or Control of Machine Rifles, Machine Guns and Sub-machine Guns, and Providing Penalty for Violation of Law, §§ 1-2.

§ 1. Unlawful to sell, deliver, transport or have in possession any machine gun. – It shall be unlawful for any person to sell, deliver, transport, or have in actual possession or control any machine gun, or assist in, or cause the same to be done. Any person who violates this act shall be guilty of a felony and punished by imprisonment in the state penitentiary not less than two (2) nor more than thirty (30) years, or by a fine not to exceed five thousand dollars, or by both such fine and imprisonment. Provided, that nothing in this act shall prohibit the sale, delivery, or transportation to police departments or members thereof, sheriffs, city marshals or the military or naval forces of this state or of the United States, or the possession and transportation of such machine guns, for official use by the above named officers and military and naval forces in the discharge of their duties.

§ 2. The term “machine-gun” defined – The term “machine gun” as used in this act shall be construed to apply to and include all firearms known as machine rifles, machine guns or sub-machine guns capable of discharging automatically and continuously loaded ammunition of any caliber in which the ammunition is fed to such gun from or by means of clips, disks, drums, belts or other separable mechanical device.

NEBRASKA:

1929 Neb. Laws 674, An Act Prohibiting the Sale, Possession and Transportation of Machine Guns within the State of Nebraska; and Prescribing Penalties for the Violation of the Provisions Hereof, ch. 190, §§ 1-2.

§ 1. Machine Guns – Sale Unlawful – Penalty – It shall be unlawful for any person, firm or corporation, its or their agents or servants, to sell or cause to be sold or otherwise to dispose of any machine gun to any person in the State of Nebraska, except officers of the law, agents of the United States government, or agents of the law enforcement department of the State of Nebraska. If any person, firm or corporation, or its or their agents or servants violate any of the provisions of this section, they shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not less than one thousand dollars nor more than ten thousand dollars.

§ 2. U.S. Army and National Guard Exempt – It shall be unlawful for any person or persons, except officers of the law, soldiers of the United States Army, or officers and enlisted men of the National Guard of this state, to transport any machine gun on any highway within this state, or to have in possession for any unlawful purpose any machine gun. Any person violating any of the provisions of this section shall be deemed guilty of a felony and upon conviction thereof, shall be imprisoned in the state penitentiary for not less than one year nor more than ten years.

NEW JERSEY:

1920 N.J. Laws 67, An Act to Amend an Act Entitled, “An Act for the Protection of Certain Kinds of Birds, Game and Fish, to Regulate Their Method of Capture, and Provide Open and Close Seasons for Such Capture and Possession,” ch. 31, § 9.

It shall be unlawful to use in hunting fowl or animals of any kind any shotgun or rifle holding more than two cartridges at one time, or that may be fired more than twice without reloading, or to use any silencer on any gun rifle or firearm when hunting for game or fowl under a penalty of twenty dollars for each offense.

1927 N.J. Laws 742, A Further Supplement to an Act Entitled, “An Act for the Punishment of Crimes,” ch. 321, § 1.

No pawnbroker shall hereafter sell or have in his possession for sale or to loan or give away, any machine gun, automatic rifle, revolver, pistol, or other firearm, or other instrument of any kind known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, metal knuckles, dagger, dirk, dangerous knife, stiletto, bomb or other high explosive. Any pawnbroker violating the provisions of this act shall be guilty of a high misdemeanor and punished accordingly.

1927 N.J. Laws 180-81, A Supplement to an Act Entitled “An Act for the Punishment of Crimes,” ch. 95, §§ 1-2.

§ 1. The term “machine gun or automatic rifle,” as used in this act, shall be construed to mean any weapon, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the said weapon, mechanism or instrument and fired therefrom at a rate of five or more shots to the second.

§ 2. Any person who shall sell, give, loan, furnish or deliver any machine gun or automatic rifle to another person, or any person who shall purchase, have or possess any machine gun or automatic rifle, shall be guilty of a high misdemeanor; provided, the provisions of this section shall not apply to any person who has procured and possesses a license to purchase, have and possess a machine gun or automatic rifle as hereinafter provided for; nor to the authorized agents and servants of such licensee; or to the officers and members of any duly authorized military organization; nor to the officers and members of the police force of any municipality, nor to the officers and members of the State Police force; nor to any sheriff or undersheriff; nor to any prosecutor of the pleas, his assistants, detectives and employees.

1934 N.J. Laws 394-95, A Further Supplement to an Act Entitled “An Act for the Punishment of Crimes,” ch. 155, §§ 1-5.

§ 1. A gangster is hereby declared to be an enemy of the state.

§ 2. Any person in whose possession is found a machine gun or a submachine gun is declared to be a gangster; provided, however, that nothing in this section contained shall be construed to apply to any member of the military or naval forces of this State, or to any police officer of the State or of any county or municipality thereof, while engaged in his official duties.

§ 3. Any person, having no lawful occupation, who is apprehended while carrying a deadly weapon, without a permit so to do and how has been convicted at least

three times of being a disorderly person, or who has been convicted of any crime, in this or in any other State, is declared to be a gangster.

§ 4. Any person, not engaged in any lawful occupation, known to be a member of any gang consisting of two or more persons, who has been convicted at least three times of being a disorderly person, or who has been convicted of any crime, in this or in any other State, is declared to be a gangster; provided, however, that nothing in this section contained shall in any wise be construed to include any participant or sympathizer in any labor dispute.

§ 5. Any person convicted of being a gangster under the provisions of this act shall be guilty of a high misdemeanor, and shall be punished by a fine not exceeding ten thousand dollars (\$10,000.00), or by imprisonment not exceeding twenty years, or both.

NEW YORK:

1931 N.Y. Laws 1033, An Act to Amend the Penal Law in Relation to Carrying and Use of Glass Pistols, ch. 435, § 1.

A person who attempts to use against another an imitation pistol, or who carries or possesses any instrument or weapon of the kind commonly known as a black-jack, slungshot, billy, sand club, sandbag, metal knuckles, bludgeon, or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, imitation pistol, machine gun, sawed off shot-gun, or any other dangerous or deadly instrument, or weapon is guilty of a misdemeanor, and if he has been previously convicted of any crime he is guilty of a felony.

1933 N.Y. Laws 1639, An Act to Amend the Penal Law, in Relation to the Sale, Possession and Use of Sub-Machine Guns, ch. 805, §§ 1, 3.

§ 1. . . A person who sells or keeps for sale, or offers or gives, disposes of or transports any instrument or weapon of the kind usually known as a machine-gun or a sub-machine gun to any person is guilty of a felony, except that the manufacture of machine-guns and sub-machine guns as merchandise and the sale and shipment thereof direct to regularly constituted or appointed state or municipal police departments, sheriffs, policemen, and other peace officers, and to state prisons, penitentiaries and county jails, and to military and naval organizations shall be lawful.

§ 3. . . . A machine gun is a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a sub-machine gun. A person who

possesses or uses such machine-gun is guilty of a felony. The presence of such machine-gun in any room, dwelling, structure, or vehicle shall be presumptive evidence of its illegal possession by all the persons occupying the place where such machine gun is found.

NORTH CAROLINA:

1917 N.C. Sess. Laws 309, Pub. Local Laws, An Act to Regulate the Hunting of Quail in Harnett County, ch. 209, § 1.

That the open season for hunting quail shall be from the first day of December to the fifteenth day of January following each succeeding year, and that it shall be unlawful to kill quail with any gun or guns that shoot over two times before reloading, and any person violating any of the provisions of this act shall be guilty of a misdemeanor.

NORTH DAKOTA:

1931 N.D. Laws 305-06, An Act to Prohibit the Possession, Sale and Use of Machine Guns, Sub-Machine Guns, or Automatic Rifles and Defining the Same . . . , ch. 178, §§ 1-2.

§ 1. The term “machine gun, sub-machine gun or automatic rifle” as used in this act shall be construed to mean a weapon mechanism or instrument not requiring the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the said weapon, mechanism or instrument and fired therefrom at a rate of five or more shots to the second.

§ 2. Any person who shall sell, give, loan, furnish or deliver any machine gun, sub-machine gun, automatic rifle of a caliber larger than twenty-two, or a bomb loaded with explosives or poisonous or dangerous gases to another person, or any person who shall purchase, have or possess any machine gun, sub-machine gun, automatic rifle, or a caliber larger than twenty-two or a bomb loaded with explosives or poisonous or dangerous gases, shall be guilty of a felony and shall be punished by imprisonment in the state penitentiary not to exceed ten years, or by a fine of not more than three thousand dollars, or both. Provided, that the provisions of this act shall not apply to any person who has procured and possesses a license to purchase, sell, have or possess a machine gun, sub-machine gun, automatic rifle, of a caliber larger than twenty-two, or bomb loaded with explosives or poisonous or dangerous gases, as hereinafter provided for, nor to the authorized agents and servants of such licensee or to the officers and members of any duly authorized military organization, nor to the officers and members of the police force of any

municipality, nor to any Sheriff, deputy sheriff, nor any other officer having police powers under the laws of the State.

OHIO:

1933 Ohio Laws 189-90, Reg. Sess., An Act. . . Relative to the Sale and Possession of Machine Guns, § 1.

That § 12819 of the General Code be supplemented . . . to read as follows:

Definitions. § 12819-3. For the purpose of this act, a machine gun, a light machine gun or a sub-machine gun shall be defined as any firearm which shoots automatically, or any firearm which shoots more than eighteen shots semi-automatically without reloading. Automatically as above used means that class of firearms which, while the trigger on the firearm is held back continues to fire successive shots. Semi-automatically means that class of firearm which discharges one shot only each time the trigger is pulled, no manual reloading operation being necessary between shots. Machine gun permit; application; bond or applicant; exceptions. § 12819-4. No person shall own, possess, transport, have custody of or use a machine gun, light machine gun or sub-machine gun, unless he first procures a permit therefor from and at the direction of the adjutant general of Ohio, who shall keep a complete record of each permit so issued. A separate permit shall be obtained for each gun so owned, possessed or used. The adjutant general shall require each applicant for such permit to give an accurate description of such weapon, the name of the person from whom it was or is to be obtained, the name of the person or persons to have custody thereof and the place of residence of the applicant and custodian. Before obtaining such permit each applicant shall give bond to the state of Ohio, to be approved by the adjutant general in the sum of five thousand dollars, conditioned to save the public harmless by reason of any unlawful use of such weapon while under the control of such applicant or under the control of another with his consent; and any person injured by such improper use may have recourse on said bond. Provided, however, that this section shall not affect the right of the national guard of Ohio, sheriffs, regularly appointed police officers of incorporated cities and villages, regularly elected constables, wardens and guards of penitentiaries, jails, prisons, penal institutions or financial institutions maintaining their own police force and such special officers as are now or may be hereafter authorized by law to possess and use such weapons when on duty. Any person who owns, possesses or has custody of a machine gun, light machine gun or sub-machine gun at the time when this section shall become effective, shall have thirty days thereafter in which to comply with the provisions of this section. Penalty for possession, transportation, etc., without permit. § 12819-5. Whoever owns, possesses, transports or has custody of or uses a machine

gun, light machine gun or sub-machine gun without a permit, as provided by section 12819-4 of the General Code, or whoever having such permit, uses or consents to the use by another of such weapon in an unlawful manner, shall be guilty of a felony and upon conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than ten years. [War trophies excepted].

OREGON:

1933 Or. Laws 489, An Act to Amend Sections 72-201, 72-202, 72-207, Oregon Code 1930, ch. 315, §§ 3-4.

§ 3. Except as otherwise provided in this act, it shall be unlawful for any person within this state to possess or have in his possession any machine gun . . .

§ 4. The unlawful concealed carrying upon the person or within the vehicle of the carrier of any machine gun, pistol, revolver or other firearm capable of being concealed upon the person is a nuisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are hereby declared to be nuisances, and shall be surrendered to the magistrate before whom said person shall be taken . . .

1933 Or. Laws 488, An Act to Amend Sections 72-201, 72-202, 72-207, Oregon Code 1930, § 2.

On and after the date upon which this act takes effect no unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another or against the government of the United States or the state of Oregon or of any political subdivision thereof shall own or have in his possession or under his custody or control any pistol, revolver, or other firearms capable of being concealed upon the person, or machine gun. The terms “pistol,” “revolver,” and “firearms capable of being concealed upon the person” as used in this acts shall be construed to apply to and include all firearms having a barrel less than 12 inches in length. The word “machine gun” shall be construed to be a weapon of any description by whatever name known, loaded or unloaded, from which two or more shots may be fired by a single pressure upon the trigger device. Any person who shall violate the provisions of this section shall be guilty of a felony and, upon conviction thereof, be punishable by imprisonment in the state penitentiary for not less than one nor more than five years.

PENNSYLVANIA:

1929 Pa. Laws 777, An Act prohibiting the sale, giving away, transfer, purchasing, owning, possession and use of machine guns: §§1-4

§ 1. Be it enacted, etc., That the term “machine gun” as used in this act, shall mean any firearm that fires two or more shots consecutively at a single function of the trigger or firing device.

§ 2. It shall be unlawful for any person, copartnership, association or corporation to sell, or give, or transfer, any machine gun to any person, copartnership, association or corporation within this Commonwealth; and it shall be unlawful for any person, copartnership, association, or corporation to purchase, own or have in possession any machine gun. Any person violating any of the provisions of this section shall be guilty of a felony, and, on conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars, and undergo imprisonment by separate or solitary confinement at labor not exceeding five years.

§ 3. Any person who shall commit, or attempt to commit, any crime within this Commonwealth, when armed with a machine gun, shall, upon conviction of such crime or attempt to commit such crime, in addition to the punishment for the crime for which he has been convicted, be sentenced to separate and solitary confinement at labor for a term not exceeding ten years. Such additional penalty of imprisonment shall commence upon the expiration or termination of the sentence imposed for the crime of which he stands convicted, and shall not run concurrently with such sentence.

§ 4. Nothing contained in this act shall prohibit the manufacture for, and sale of, machine guns to the military forces of the United States, or of the Commonwealth of Pennsylvania, or to any police department of this Commonwealth, or of any political subdivision thereof, nor to the purchase or possession of machine guns by such governments and departments; and nothing contained in this act shall prohibit any organization, branch, camp or post of veterans, or any veteran of any war in which the United States was engaged, from owning and possessing a machine gun as a relic, if a permit for such ownership or possession has been obtained from the sheriff of the county, which permit is at all times attached to such machine gun. The sheriffs of the several counties are hereby authorized, upon application and the payment of a fee of one dollar, to issue permits for the ownership and possession of machine guns by veteran and organizations, branches, camps or posts of veterans and organizations, branches, camps or posts of veterans, upon production to the sheriff of such evidence as he may require that the organization, branch, camp or post is a bona fide organization of veterans, or that any such veteran

applicant is a veteran of good moral character and reputation, and that the ownership and possession of such machine gun is actually desired as a relic.

1929 Pa. Laws 777, An Act prohibiting the sale, giving away, transfer, purchasing, owning, possession and use of machine guns: § 3.

§ 3. Any person who shall commit, or attempt to commit, any crime within this Commonwealth, when armed with a machine gun, shall upon conviction of such crime or attempt to commit such crime, in addition to the punishment for the crime for which he has been convicted, be sentenced to separate and solitary confinement at labor for a term not exceeding ten years. Such additional penalty of imprisonment shall commence upon the expiration or termination of the sentence imposed for the crime of which he stands convicted, and shall not run concurrently with such sentence.

RHODE ISLAND:

1927 R.I. Pub. Laws 256, An Act to Regulate the Possession of Firearms: §§ 1, 12.

§ 1. When used in this act the following words and phrases shall be construed as follows: “pistol” shall include any pistol or revolver, and any shot gun, rifle or similar weapon with overall less than twenty-six inches, but shall not include any pistol without a magazine or any pistol or revolver designed for the use of blank cartridges only. “machine gun” shall include any weapon which shoots automatically and any weapon which shoots more than twelve shots semi-automatically without reloading. “Firearm shall include any machine gun or pistol. . . “crime of violence” shall mean and include nay of the following crimes or any attempt to commit any of the same, viz.murder, manslaughter, rape, mayhem, assault or battery involving grave bodily injury, robbery, burglary, and breaking and entering. “sell” shall include let or hire, give, lend and transfer, and the word “purchase” shall include hire, accept and borrow, and the expression “purchasing” shall be construed accordingly. . .

§ 12. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer’s number, or other mark of identification on any firearm. Possession of any firearm upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

1927 (January Session) R.I. Pub. Laws 256, An Act to Regulate the Possession of Firearms: §§ 1, 4, 5, 6

§ 1. When used in this act the following words and phrases shall be construed as follows: “Pistol” shall include any pistol or revolver, and any shot gun, rifle or

similar weapon with overall less than twenty-six inches, but shall not include any pistol without a magazine or any pistol or revolver designed for the use of blank cartridges only. "machine gun" shall include any weapon which shoots automatically and any weapon which shoots more than twelve shots semi-automatically without reloading. "Firearm shall include any machine gun or pistol. . . "Crime of violence" shall mean and include any of the following crimes or any attempt to commit any of the same, viz.: murder, manslaughter, rape, mayhem, assault or battery involving grave bodily injury, robbery, burglary, and breaking and entering. "Sell" shall include let or hire, give, lend and transfer, and the word "purchase" shall include hire, accept and borrow, and the expression "purchasing" shall be construed accordingly. . .

§ 4. No person shall, without a license therefor, issued as provided in section six hereof, carry a pistol in any vehicle or concealed on or about his person, except in his dwelling house or place of business or on land possessed by him, and no person shall manufacture, sell, purchase or possess a machine gun except as otherwise provided in this act.

§ 5. The provisions of section four shall not apply to sheriffs, deputy sheriffs, the superintendent and members of the state police, prison or jail wardens or their deputies, members of the city or town police force or other duly appointed law enforcement officers, nor to members of the army, navy or marine corps of the United States, or of the national guard, when on duty, or of organizations by law authorized to purchase or receive firearms from the United States or this state, nor to officers or employees of the United States authorized by law to carry a concealed firearm, nor to duly authorized military organizations when on duty, nor to members thereof when at or going to or from their customary places of assembly, nor to the regular and ordinary transportation of pistols as merchandise, nor to any person while carrying a pistol unloaded in a wrapper from the place of purchase to his home or place of business, or to a place of repair or back to his home or place of business, or in moving goods from one place or abode or business to another.

§ 6. The licensing authorities of any city or town shall upon application of any person having a bona fide residence or place of business within such city or town, or of any person having a bona fide residence or place of business within the United States and a license to carry a pistol concealed upon his person issued by the authorities of any other state or subdivision of the United States, issue a license to such person to carry concealed upon his person a pistol within this state for not more than one years from date of issue, if it appears the applicant has good reason to fear an injury to his person or property or has any other proper reason for carrying a pistol, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the attorney-general and shall bear the

fingerpring, name, address, description and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the attorney-general and the triplicate shall be preserved for six years by the licensing authorities issuing said license. A fee of two dollars may be charged and shall be paid for each license, to the officer issuing the same. Before issuing any such permit the applicant for the same shall be required to give bond to the city or town treasurer in the penal sum of three hundred dollars, with surety satisfactory to the authority issuing such permit, to keep the peace and be of good behavior. Every such permit shall be valid for one year from the date when issued unless sooner revoked. The fee charged for the issuing of such license or permit shall be applied in accordance with the provisions of section thirty-three of chapter 401 of the general laws.

1927 R. I. Pub. Laws 256, An Act to Regulate the Possession of Firearms: §§ 1, 4, 7, 8.

§ 1. When used in this act the following words and phrases shall be construed as follows: "Pistol" shall include any pistol or revolver, and any shot gun, rifle or similar weapon with overall less than twenty-six inches, but shall not include any pistol without a magazine or any pistol or revolver designed for the use of blank cartridges only. "Machine gun" shall include any weapon which shoots automatically and any weapon which shoots more than twelve shots semi-automatically without reloading. "Firearm shall include any machine gun or pistol. . . "Crime of violence" shall mean and include any of the following crimes or an attempt to commit any of the same, viz.: murder, manslaughter, rape, mayhem, assault or battery involving grave bodily injury, robbery, burglary, and breaking and entering. "Sell" shall include let or hire, give, lend and transfer, and the word "purchase" shall include hire, accept and borrow, and the expression "purchasing" shall be construed accordingly. . .

§ 4. No person shall, without a license therefor, issued as provided in section six hereof, carry a pistol in any vehicle or concealed on or about his person, except in his dwelling house or place of business or on land possessed by him, and no person shall manufacture, sell, purchase or possess a machine gun except as otherwise provided in this act.

§ 7. The attorney-general may issue a permit to any banking institution doing business in this state or to any public carrier who is engaged in the business of transporting mail, money, securities or other valuables, to possess and use machine guns under such regulations as the attorney general may prescribe.

§ 8. It shall be unlawful within this state to manufacture, sell, purchase or possess except for military or police purposes, any muffler, silencer or device for deadening or muffling the sound of a firearm when discharged.

1927 R.I. Pub. Laws 256, An Act to Regulate the Possession of Firearms, §§1, 3 § 1. When used in this act the following words and phrases shall be construed as follows: “pistol” shall include any Pistol or revolver, and any shot gun, rifle or similar weapon with overall less than twenty-six inches, but shall not include any pistol without a magazine or any pistol or revolver designed for the use of blank cartridges only. “machine gun” shall include any weapon which shoots automatically and any weapon which shoots more than twelve shots semi-automatically without reloading. “Firearm shall include any machine gun or pistol. . . “Crime of violence” shall mean and include any of the following crimes or any attempt to commit any of the same, viz.: murder, manslaughter, rape, mayhem, assault or battery involving grave bodily injury, robbery, burglary, and breaking and entering. “sell” shall include let or hire, give, lend and transfer, and the word “purchase” shall include hire, accept and borrow, and the expression “purchasing” shall be construed accordingly. . .

§ 3. No person who has been convicted in this state or elsewhere of a crime of violence shall purchase own, carry or have in his possession or under his control any firearm.

SOUTH CAROLINA:

1934 S.C. Acts 1288, An Act regulating the use and possession of Machine Guns: §§ 1 to 6.

§ 1. “Machine gun” defined. – Be it enacted by the General Assembly of the State of South Carolina: For the purposes of this Act the word “machine gun” applies to and includes all firearms commonly known as machine rifles, machine guns and sub-machine guns of any caliber whatsoever, capable of automatically discharging more than eight cartridges successively without reloading, in which the ammunition is fed to such gun from or by means of clips, disks, belts or other separable mechanical device.

§ 2. Transportation of Machine Gun. – It shall be unlawful for any person or persons in any manner to transport from one place to another in this State, or from any railroad company, or express company, or other common carrier, or any officer, agent or employee of any of them, or any other person acting in their behalf knowingly to ship or to transport form one place to another in this State in any manner or by any means whatsoever, except as hereinafter provided, any firearm as described hereinabove or commonly known as a machine gun.

§ 3. Storing, Keeping, and/or Possessing Machine Gun. – It shall be unlawful for any person to store, keep, possess, or have in possession, or permit another to store,

keep, possess, or have in possession, except as hereinafter provided, any firearm of the type defined above or commonly known as a machine gun.

§ 4. Selling, Renting or Giving away Machine Gun. – It shall be unlawful for any person to sell, rent, or give away, or be interested directly or indirectly, in the sale, renting or giving away, or otherwise disposing of any firearm of the type above described or commonly known as a machine gun.

§ 5. Exceptions – Register Machine Guns. – The provisions of this Act shall not apply to the army, navy or marine corps of the United States, the National Guard, and organizations authorized by law to purchase or received machine guns from the United States, or from this State, and the members of such corps. National Guard and organizations while on duty or at drill, may possess, carry and transport machine guns, and, Provided, further, That any peace officer of the State, counties or political sub-division thereof. State Constable, member of the Highway patrol, railway policemen, warden, superintendents, headkeeper or deputy of any State prison, penitentiary, workhouse, county jail, city jail, or other institution for detention of persons convicted or accused of crime, or held as witnesses in criminal cases, or persons on duty in the postal service of the United States, or common carrier while transporting direct to any police department, military or naval organization, or persons authorized by law to possess or use a machine gun, may possess machine guns when required in the performance of their duties, nor shall the provisions of this Act be construed to apply to machine guns kept for display as relics and which are rendered harmless and not useable. Within thirty days after the passage of this Act every person permitted by this Act to possess a machine gun or immediately after any person is elected to or appointed to any office or position which entitles such person to possess a machine gun, shall file on the office of the Secretary of State on a blank to be supplied by the Secretary of State on application therefor, an application to be properly sworn to, which shall be approved by the Sheriff of the county in which the applicant resides or has its principal place of business, which shall include the applicants name, residence and business address, description including sex, race, age weight, height, color of eyes, color of hair, whether or not ever charged or convicted of any crime, municipal, State or otherwise, and where, if so charged, and when same was disposed of. The applicant shall also give the description including the serial number and make the machine gun which he possesses or desires to possess. Thereupon the Secretary of State shall file such application in his office, registering such applicant together with the information required in the application in a book or index to be kept for that purpose, and assign to him a number, and issue to him a card which shall bear the signature of the applicant, and which he shall keep with him while he has such machine gun in his possession. Such registration shall be made on the date

application is received and filed iwth the Secretary of State, and shall expire on December 31, of the year in which said license is issued.

§ 6. Penalty – Any person violating any of the provisions of this Act shall be guilty of a felony, and, on conviction thereof shall be sentenced to pay a fine not exceeding One Thousand Dollars, and undergo imprisonment by separate or solitary confinement at labor not exceeding twenty (20) years.

SOUTH DAKOTA:

1933 S.D. Sess. Laws 245-47, An Act Relating to Machine Guns, and to Make Uniform the Law with Reference Thereto, ch. 206, §§ 1-8.

§ 1. “machine gun” applies to and includes a weapon of any description by whatever name known, loaded or unloaded from which more than five shots or bullets may be rapidly or automatically, or semi-automatically discharged from a magazine, by a single function of the firing device. “Crime of Violence” apples to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering, and larceny. “Person” applied to and includes firm, partnership, association or corporation.

§ 2. Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not more than twenty years.

§ 3. Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not more than fifteen years.

§ 4. Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose; (a) When the machine gun is on premises not owned or rented for bona fide permanent residence or business occupancy by the person in whose possession the machine gun may be found; or (b) when in the possession of, or used by, an unnaturalized foreign born person, who has been convicted of a crime of violence in any court of record, state or federal of the United States of America, its territories or insular possessions; or (c) when the machine gun is of the kind described in §8 and has not been registered as in said section required; or (d) when empty or loaded pistol shells of 30 or larger caliber which have been or are susceptible or use in the machine gun are found in the immediate vicinity thereof.

§ 5. The presence of a machine gun in any room, boat, or vehicle shall be evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

§ 6. Exceptions. Nothing contained in this act shall prohibit or interfere with (1.) the manufacture for, and sale of, machine guns to the military forces or the peace

officers of the United States or of any political subdivision thereof, or the transportation required for that purpose; (2.) The possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake; (3.) The possession of a machine gun other than one adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber, for a purpose manifestly not aggressive or offensive.

§ 7. Every manufacturer shall keep a register of all machine guns manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt, of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received and the purpose for which it was acquired by the person to whom the machine gun was sold, loaned given or delivered, or from whom received. Upon demand every manufacturer shall permit any marshal, sheriff or police officer to inspect his entire stock of machine guns, parts and supplies therefor, and shall produce the register, herein required, for inspection. A violation of any provisions of this section shall be punishable by a fine of not more than five hundred dollars, or by imprisonment in the county jail, nfor not exceeding six months or by both such fine and imprisonment.

§ 8. Every machine gun now in this state adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber shall be registered in the office of the Secretary of State, on the effective date of this act, and annually thereafter. If acquired hereafter it shall be registered within 24 hours after its acquisition. Blanks for registration shall be prepared by the Secretary of STate, and furnished upon application. To comply with this section the application as filed must show the model and serial number of the gun, the name, address and occupation of the person in possession, ande from whom and the purpose for which, the gun was acquired. The registration data shall not be subject to inspection by the public. Any person failing to register any gun as required by this section shall be presumed to possess the same for offensive and aggressive purpose.

TEXAS:

1933 Tex. Gen. Laws 219-20, 1st Called Sess., An Act Defining “Machine Gun” and “Person”; Making It an Offense to Possess or Use Machine Guns. . . , ch. 82, §§ 1-4, 6

§ 1. Definition. “Machine gun” applies to and includes a weapon of any description by whatever name known, loaded or unloaded, from which more than five (5) shots or bullets may be automatically discharged from a magazine by a single functioning of the firing device. “Person” applies to and includes firm, partnership, association or corporation.

§ 2. Whosoever shall possess or use a machine gun, as defined in Section 1, shall be guilty of a felony and upon conviction thereof, shall be confined in the State Penitentiary, for not less than two nor more than ten (10) years.

§ 3. Whoever shall sell, lease, give, barter, exchange, or trade, or cause to be sold, leased, given, bartered, exchanged, or traded, a machine gun as hereinabove defined to any person shall be guilty of a felony and upon conviction thereof, shall be confined to the State Penitentiary, for not less than two (2) nor more than (10) years.

§ 4. [Excludes military, police, unusable keepsakes, prison officers.]

§ 6. The fact that there are many gangsters purchasing machine guns in Texas, causing a menace to the citizenry of Texas, creates an emergency and imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

VERMONT:

1923 Vt. Acts and Resolves 127, An Act to Prohibit the Use of Machine Guns and Automatic Rifles in Hunting, § 1.

A person engaged in hunting for game who uses, carries, or has in his possession a machine gun of any kind or description, or an automatic rifle of military type with a magazine capacity of over six cartridges, shall be fined not more than five hundred dollars nor less than fifty dollars. The presence of such a firearm in a hunting camp shall be presumptive evidence that the possessor of such a firearm has violated the provisions of this section.

VIRGINIA:

1934 Va. Acts 137-39, An Act to define the term “machine gun”; to declare the use and possession of a machine gun for certain purposes a crime and to prescribe the punishment therefor, ch. 96, §§ 1-7.

§ 1. Where used in this act; (a) “Machine gun” applies to and includes a weapon of any description by whatever name known, loaded or unloaded, from which more than seven shots or bullets may be rapidly, or automatically, or semi-automatically discharged from a magazine, by a single function of the firing device, and also applies to and includes weapons, loaded or unloaded, from which more than sixteen shots or bullets may be rapidly, automatically, semi-automatically or otherwise discharged without reloading. (b) “Crime of violence” applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, . . .

§ 2. Possession or use of machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a crime punishable by death or by imprisonment in the State penitentiary for a term not less than twenty years.

§ 3. Unlawful possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the State penitentiary for a term of not less than ten years.

§ 4. Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose; (a) When the machine gun is on premises not owned or rented, for bona fide permanent residence or business occupancy, by the person in whose possession the machine gun may be found; or (b) When in the possession of , or used by, an unnaturalized foreign born person, or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions; or (c) When the machine gun is of the kind described in section eight and has not been registered as in said section required; or (d) When empty or loaded pistol shells of thirty (thirty one-hundredths inch or seven and sixty-three one hundredths millimeter) or larger caliber which have been or are susceptible to use in the machine gun are found in the immediate vicinity thereof.

§ 5. The presence of a machine gun in any room, boat, or vehicle shall be prima facie evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

§ 6. (excludes military police etc.)

§ 7. Every manufacturer or dealer shall keep a register of all machine guns manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, load, gift, delivery or receipt, of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received; and the purpose for which it was acquired by the person to whom the machine gun was sold. . .

WASHINGTON:

1933 Wash. Sess. Laws 335-36, An Act Relating to Machine Guns, Regulating the Manufacture, Possession, Sale of Machine Guns and Parts, and Providing Penalty for the Violation Thereof, and Declaring an Emergency, ch. 64, §§ 1-5.

§ 1. That it shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun: provided, however, that such limitation shall not apply to any peace officer in the discharge

of official duty, or to any officer or member of the armed forces of the United States or the State of Washington.

§ 2. For the purpose of this act a machine gun is defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

§ 3. Any person violating any of the provisions of this act shall be guilty of a felony.

§ 4. All machine guns, or parts thereof, illegally held or possessed are hereby declared to be contraband, and it shall be the duty of all peace officers, and/or any officer or member of the armed forces of the United States or the State of Washington to seize said machine gun, or parts thereof, wherever and whenever found.

§ 5. This act is necessary for the immediate preservation of public health and safety, and shall take effect immediately.

WEST VIRGINIA:

1925 W.Va. Acts 31-32, 1st Extraordinary Sess., An Act to Amend and Re-Enact Section Seven . . . Relating to Offenses Against the Peace . . . , ch. 3, § 7, pt. b. It shall be unlawful for any person, firm or corporation to place or keep on public display to passersby on the streets, for rent or sale, any revolver, pistol, dirk, bowie knife, slung shot or other dangerous weapon of like kind or character or any machine gun, sub-machine gun or high powered rifle or any gun of similar kind or character, or any ammunition for the same. All dealers licensed to sell any of the forgoing arms or weapons shall take the name, address, age and general appearance of the purchaser, as well as the maker of the gun, manufacturer's serial number and caliber, and report the same at once in writing to the superintendent of the department of public safety. It shall be unlawful for any person to sell, rent, give or lend any of the above mentioned arms to an unnaturalized person.

1925 W.Va. Acts 30-31, 1st Extraordinary Sess., An Act to Amend and Re-Enact Section Seven . . . Relating to Offenses Against the Peace; Providing for the Granting and Revoking of Licenses and Permits Respecting the Use, Transportation and Possession of Weapons and Fire Arms . . . , ch. 3, § 7, pt. b. (b) It shall be unlawful for any person to carry, transport, or have in his possession any machine gun, sub-machine gun, and what is commonly known as a high

powered rifle, or any gun of a similar kind or character, or any ammunition therefor, except on his own premises or premises leased to him for a fixed term, until such person shall have first obtained a permit from the superintendent of the department of public safety of this state, and approved by the governor, or until a license therefore shall have been obtained from the circuit court as in the case of pistols and all such licenses together with the numbers identifying such rifle shall be certified to the superintendent of the department of public safety. Provided, further, that nothing herein shall prevent the use of rifles by bona fide rifle club members who are freeholders or tenants for a fixed term in this state at their usual or customary place of practice, or licensed hunters in the actual hunting of game animals. No such permit shall be granted by such superintendent except in cases of riot, public danger, and emergency, until such applicant shall have filed his written application with said superintendent of the department of public safety, in accordance with such rules and regulations as may from time to time be prescribed by such department of public safety relative thereto, which application shall be accompanied by a fee of two dollars to be used in defraying the expense of issuing such permit and said application shall contain the same provisions as are required to be shown under the provisions of this act by applicants for pistol licenses, and shall be duly verified by such applicant, and at least one other reputable citizen of this state. Any such permit as granted under the provisions of this act may be revoked by the governor at his pleasure upon the revocation of any such permit the department of public safety shall immediately seize and take possession of any such machine gun, sub-machine gun, high powered rifle, or gun of similar kind and character, held by reason of said permit, and any and all ammunition therefor, and the said department of public safety shall also confiscate any such machine gun, sub-machine gun and what is commonly known as a high powered rifle, or any gun of similar kind and character and any and all ammunition therefor so owned, carried, transported or possessed contrary to the provisions of this act, and shall safely store and keep the same, subject to the order of the governor.

WISCONSIN:

1928-1929 Wis. Sess. Laws 157, An Act to Create . . . the Statutes, Relating to Machine Guns and Providing a Penalty, ch. 132, § 1.

Any person who shall own, use or have in his possession a machine gun shall be punished by imprisonment in the state prison for a term the minimum of which shall be one year and the maximum fifteen years. Nothing in this section shall be construed as prohibiting police officers, national guardsmen, sheriffs and their deputies from owning, using or having in their possession a machine gun while actually engaged in the performance of their lawful duties; nor shall any person or

organization be prohibited from possessing any machine gun received from the government as a war trophy.

1931-1933 Wis. Sess. Laws 245-47, An Act . . .Relating to Machine Guns and to Make Uniform the Law with Reference Thereto, ch. 76, § 1, pt. 164.01 to 164.06. 164.01 Definitions (a) “Machine gun” applies to and includes a weapon of any description by whatever name known from which more than two shots or bullets may be discharged by a single function of the firing device. . .

164.02 Use of Machine Gun is a Separate Crime. Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not less than twenty years.

164.03 Possession for Aggressive Purpose. Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term not less than ten years.

164.04 Possession when Presumed For Aggressive Purpose. Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose; (1) when the machine gun is on premises not owned or rented, for a bona fide permanent residence or business occupancy, by the person in whose possession the machine gun may be found; or (2) when in the possession of, or used by, an unnaturalized foreign-born person, or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions; or (3) When the machine gun is of the kind described in section 164.08 and has not been registered as in said section required; or (4) When empty or loaded pistol shells of 30 (.30 in. or 7.63 mm.) or larger caliber which have been used or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

164.05 Presumptions from Presence of Gun. The presence of a machine gun in any room, boat, or vehicle shall be evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle shall be evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

164.06 Exceptions. Nothing contained in this chapter shall prohibit or interfere with the manufacture for, and sale of , machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose; the possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake; the possession of a machine gun other than one adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger

caliber, for a purpose manifestly not aggressive or offensive. . . [manufacturers and owners required to register].

1931-1933 Wis. Sess. Laws 778, An Act . . . Relating to the Sale, Possession, Transportation and Use of Machine Guns and Other Weapons in Certain Cases, and Providing a Penalty, ch. 359, § 1.

No person shall sell, possess, use or transport any machine gun or other full automatic firearm, nor shall any person sell, possess, use or transport any bomb, hand grenade, projectile, shell or other container of any kind or character into which tear gas or any similar substance is used or placed for use to cause bodily discomfort, panic, or damage to property. (2) Any person violating any of the provisions of this section shall be punished by imprisonment in the state prison for a term of not less than one year nor more than three years. (3) [doesn't apply to police, military etc.].

WYOMING:

1933 Wyo. Sess. Laws 117, An Act Relating to the Registering and Recording of Certain Facts Concerning the Possession and Sale of Firearms by all Wholesalers, Retailers, Pawn Brokers, Dealers and Purchasers, Providing for the Inspection of Such Register, Making the Violation of the Provisions Hereof a Misdemeanor, and Providing a Penalty Therefor, ch. 101, §§ 1-4.

§ 1. All wholesalers, retailers, dealers and pawn brokers are hereby required to keep a record of all firearms which may come into their possession, whether new or second hand, which record shall be known as the Firearms Register. Such register shall contain the following information, to wit: the name of the manufacturer, person, persons, firm or corporation from whom the firearm was obtained, the date of its acquisition, its manufacturer's number, its color, its caliber, whether the same is new or second hand, whether it is automatic, a revolver, a single shot pistol, a rifle, a shot gun or a machine gun, the name of the party to whom said firearm is sold in such purchasers handwriting and the date of such sale.

§ 2. Every person who purchases any firearm from any retailer, pawn broker or dealer, shall sign his name or make his mark properly witnessed, if he cannot write, on said Firearm Register, at the time of the delivery to him of any firearm so purchased.

§ 3. The firearm register, herein required to be kept, shall be prepared by every wholesaler, retailer, pawn broker and dealer in firearms in the state of Wyoming within 30 days after this Act shall become effective and shall thereafter be continued as herein provided. It shall be kept at the place of business of said

wholesaler, retailer, pawn broker or dealer, and shall be subject to inspection by any peace officer at all reasonable times.

§ 4. Any person, firm or corporation who shall fail or refuse to comply with the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed \$100.00, or imprisoned in the County Jail for a period of not to exceed six months, or by both such fine and imprisonment.

SOURCE: <https://firearmslaw.duke.edu/repository/search-the-repository/>

EXHIBIT E

DANGEROUS WEAPONS LAWS

ALABAMA

Harry Toulmin, A Digest of the Laws of the State of Alabama : Containing the Statutes and Resolutions in Force at the End of the General Assembly in January, 1823. To which is Added an Appendix; Containing the Declaration of Independence; the Constitution of the United States; the Act authorizing the People of Alabama to form a Constitution and State Government; and the Constitution of the State of Alabama Page 627, Image 655 (1823) available at The Making of Modern Law: Primary Sources. 1805

Negroes and Mulattoes, Bond and Free – 1805, Chapter I, An Act respecting Slaves. – Passed March 6, 1805: Sec. 4. And be it further enacted, that no slave shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, except the tools given him to work with, or that he is ordered by his master, mistress, or overseer, to carry the said articles from one place to another, but all and every gun , weapon, or ammunition, found in the possession or custody of any slave, may be seized by any person, and upon due proof made thereof, before any justice of the peace of the county or corporation where such seizure shall be made, shall, by his order, be forfeited to the seizer, for his own use; and moreover, every such offender shall have and receive, by order of such justice, any number of lashes, not exceeding thirty-nine, on his bare back for every such offense : Provided nevertheless, That any justice of the peace may grant, in his proper county, permission in writing to any slave, on application of his master or overseer, to carry and use a gun and ammunition within the limits of his said master's or owner's plantation, for a term not exceeding one year, and revocable at any time within such term, at the discretion of the said justice, and to prevent the inconveniences arising from the meeting of slaves.

1837 Ala. Acts 7, An Act to Suppress the Use of Bowie Knives, §§ 1, 2.
Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That if any person carrying any knife or weapon, known as Bowie Knives or Arkansaw [sic] Tooth-picks, or either or any knife or weapon that shall in form, shape or size, resemble a Bowie-Knife or Arkansaw [sic] Tooth-pick, on a sudden rencounter, shall cut or stab another with such knife, by reason of which he dies, it shall be adjudged murder, and the offender shall suffer the same as if the killing had been by malice aforethought.

And be it further enacted, [t]hat for every such weapon, sold or given, or otherwise disposed of in this State, the person selling, giving or disposing of the same, shall pay a tax of one hundred dollars, to be paid into the county Treasury; and if any person so selling, giving or disposing of such weapon, shall fail to give in the same to his list of taxable property, he shall be subject to the pains and penalties of perjury.

1839 Ala. Acts 67, An Act to Suppress the Evil Practice of Carrying Weapons Secretly, § 1

That if any person shall carry concealed about his person any species of fire arms, or any bowie knife, Arkansas tooth-pick, or any other knife of the like kind, dirk, or any other deadly weapon, the person so offending shall, on conviction thereof, before any court having competent jurisdiction, pay a fine not less than fifty, nor more than five hundred dollars, to be assessed by the jury trying the case; and be imprisoned for a term not exceeding three months, at the discretion of the Judge of said court.

1841 Ala. Acts 148–49, Of Miscellaneous Offences, ch. 7, § 4.

Everyone who shall hereafter carry concealed about his person, a bowie knife, or knife or instrument of the like kind or description, by whatever name called, dirk or any other deadly weapon, pistol or any species of firearms, or air gun, unless such person shall be threatened with, or have good cause to apprehend an attack, or be travelling, or setting out on a journey, shall on conviction, be fined not less than fifty nor more than three hundred dollars: It shall devolve on the person setting up the excuse here allowed for carrying concealed weapons, to make it out by proof, to the satisfaction of the jury; but no excuse shall be sufficient to authorize the carrying of an air gun, bowie knife, or knife of the like kind or description.

The Revised Code of Alabama Page 169, Image 185 (1867) available at The Making of Modern Law: Primary Sources.

Taxation, § 10. On All pistols or revolvers in the possession of private persons not regular dealers holding them for sale, a tax of two dollars each; and on all bowie knives, or knives of the like description, held by persons not regular dealers, as aforesaid, a tax of three dollars each; and such tax must be collected by the assessor when assessing the same, on which a special receipt shall be given to the tax payer therefor, showing that such tax has been paid for the year, and in default of such payment when demanded by the assessor, such pistols, revolvers, bowie knives, or knives of like description, must be seized by him, and unless redeemed by payment in ten days thereafter, with such tax, with an additional penalty of fifty per cent., the same must be sold at public outcry before the court house door, after

five days notice; and the overplus remaining, if any, after deducting the tax and penalty aforesaid, must be paid over to the person from whom the said pistol, revolver, bowie knife, or knife of like description, was taken, and the net amount collected by him must be paid over to the collector every month, from which, for each such assessment and collection, the assessor shall be entitled to fifty cents, and when the additional penalty is collected, he shall receive fifty per cent. additional thereto.

Wade Keyes, *The Code of Alabama, 1876 : with References to the Decisions of the Supreme Court of the State upon the Construction of the Statutes; and in Which the General and Permanent Acts of the Session of 1876-7 have been Incorporated* Page 882, Image 898 (1877) available at *The Making of Modern Law: Primary Sources*.

Offenses Against Public Peace, § 4109. Carrying Concealed Weapons – Any person who, not being threatened with, or having good reason to apprehend, an attack, or traveling, or setting out on a journey, carries concealed about his person a bowie knife, or any other knife or instrument of like kind or description, or a pistol, or fire arms of any other kind or description, or an air gun, must be fined, on conviction, not less than fifty, nor more than three hundred dollars; and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than six months. (Footnote – Not unconstitutional. – 1 Ala. 612 Co-extensive only with necessity – 49 Ala. 355. . .)

Wade Keyes, *The Code of Alabama, 1876 : with References to the Decisions of the Supreme Court of the State upon the Construction of the Statutes; and in Which the General and Permanent Acts of the Session of 1876-7 have been Incorporated* Page 989, Image 1005 (1877) available at *The Making of Modern Law: Primary Sources*.

Proceedings In Circuit and City Courts, § 4809. Carrying Concealed Weapons. – In an indictment for carrying concealed weapons, it is sufficient to charge that the defendant “carried concealed about his person a pistol, or other description of fire-arms,” or “a bowie-knife, or other knife or instrument of the like kind or description,” without averring the want of a legal excuse on his part; and the excuse, if any, must be proved by the defendant, on the trial, to the satisfaction of the jury.

Wade Keyes, *The Code of Alabama, 1876 : with References to the Decisions of the Supreme Court of the State upon the Construction of the Statutes; and in Which the General and Permanent Acts of the Session of 1876-7 have been Incorporated*

Page 901, Image 917 (1877) available at The Making of Modern Law: Primary Sources.

Offenses Against Public Health, etc. § 4230 (3751). Selling, giving, or lending, pistol or bowie knife, or like knife, to boy under eighteen. – Any person who sells, gives, or lends, to any boy under eighteen years of age, any pistol, or bowie knife, or other knife of like kind or description, must on conviction, be fined not less than fifty, nor more than five hundred dollars.

Wade Keyes, The Code of Alabama, 1876 : with References to the Decisions of the Supreme Court of the State upon the Construction of the Statutes; and in Which the General and Permenent Acts of the Session of 1876-7 have been Incorporated Page 883, Image 899 (1877) available at The Making of Modern Law: Primary Sources.

Carrying Weapons, Dangerous or Unusual Weapons | Alabama | 1873

Offenses Against Public Justice, &c. § 4110. Carrying, concealed, brass knuckles and slung-shots. – Any person who carries, concealed about his person, brass knuckles, slung-shot, or other weapon of like kind or description, shall, on conviction thereof, be fined not less than twenty, nor more than two hundred dollars, and may also, at the discretion of the court trying the case, be imprisoned in the county jail, or sentenced to hard labor for the county, for a term not exceeding six months. § 4111. Carrying rifle or shot-gun walking canes. – Any person who shall carry a rifle or shot-gun walking cane, shall, upon conviction, be fined not less than five hundred dollars, nor more than one thousand dollars, and be imprisoned in the penitentiary not less than two years.

J. M. Falkner, The Code of Ordinances of the City Council of Montgomery [Alabama], with the Charter Page 148-49, Image 148-49 (1879) available at The Making of Modern Law: Primary Sources.

§ 428. Any person who, not being threatened with or having good reason to apprehend an attack, or travelling or setting out on a journey, carries concealed about his person a bowie-knife or any other knife of like kind or description, or a pistol or fire-arms of any other kind or description, air gun, slung-shot, brass-knuckles, or other deadly or dangerous weapon, must, on conviction, be fined not less than one nor more than one hundred dollars.

William Logan Martin, Commissioner, The Code of Alabama, Adopted by Act of the General Assembly of the State of Alabama, Approved February 16, 1897, Entitled “An Act to Adopt a Code of Laws for the State Alabama ” with Such Statutes Passed at the Session of 1896-97, as are Required to be Incorporated

Therein by Act Approved February 17, 1897; and with Citations to the Decisions of the Supreme Court of the State Construing or Mentioning the Statutes Page 1137, Image 1154 (Vol. 1, 1897) available at The Making of Modern Law: Primary Sources.

[License Taxes; From Whom and For What Business Required; Prices; County Levy,] Taxation, § 27. For dealers in pistols, or pistol cartridges, or bowie-knives, or dirk-knives, whether principal stock in trade or not, three hundred dollars. Any cartridges, whether called rifle or pistol cartridges, or by any other name, that can be used in a pistol, shall be deemed pistol cartridges within the meaning of this subdivision. Any person or firm who orders for another, or delivers any cartridges within this state, shall be deemed a dealer under this provision.

ALASKA

Fred F. Barker, Compilation of the Acts of Congress and Treaties Relating to Alaska: From March 30, 1867, to March 3, 1905 139 1906.

That it shall be unlawful for any person to carry concealed about his person, in any manner whatever, any revolver, pistol, or other firearm, or knife (other than an ordinary pocket knife), or any dirk or dagger, slung shot, metal knuckles, or any instrument by the use of which injury could be inflicted upon the person or property of any other person.

1896-99 Alaska Sess. Laws 1270, An Act To Define And Punish Crimes In The District Of Alaska And To Provide A Code Of Criminal Procedure For Said District, chap. 6, § 117.

That it shall be unlawful for any person to carry concealed about his person in any manner whatever, any revolver, pistol, or other firearm, or knife (other than an ordinary pocket knife), or any dirk or dagger, slung shot, metal knuckles, or any instrument by the use of which injury could be inflicted upon the person or property of any other person.

ARIZONA

Coles Bashford, The Compiled Laws of the Territory of Arizona, Including the Howell Code and the Session Laws From 1864 to 1871, Inclusive: To Which is Prefixed the Constitution of the United States, the Mining Law of the United States, and the Organic Acts of the Territory of Arizona and New Mexico Page 96, Image 102 (1871) available at The Making of Modern Law: Primary Sources, 1867.

An Act to prevent the improper use of deadly weapons, and the indiscriminate use of fire arms in the towns and villages of the territory. § 1. That any person in this Territory, having, carrying or procuring from another person, any dirk, dirk knife, bowie knife, pistol, gun or other deadly weapon, who shall, in the presence of two or more persons, draw or exhibit any of said deadly weapons in a rude, angry or threatening manner, not in necessary self defense, or who shall, in any manner, unlawfully use the same in any fight or quarrel, the person or persons so offending, upon conviction thereof in any criminal court in any county of this Territory, shall be fined in any sum not less than one hundred nor more than five hundred dollars, or imprisonment in the county jail not less than one nor more than six months, in the discretion of the court, or both such fine and imprisonment, together with the cost of prosecution.

1889 Ariz. Sess. Laws 16, An Act Defining And Punishing Certain Offenses Against The Public Peace, § 1.

If any person within any settlement, town, village or city within this territory shall carry on or about his person, saddle, or in his saddlebags, any pistol, dirk, dagger, slung shot, sword cane, spear, brass knuckles, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and in addition thereto, shall forfeit to the County in which his is convicted, the weapon or weapons so carried.

1893 Ariz. Sess. Laws 3, An Act To Regulate And Prohibit The Carrying Of Deadly Weapons Concealed, § 1.

It shall be unlawful for any person to have or carry concealed on or about his person any pistol or other firearm, dirk, dagger, slung-shot, sword cane, spear, brass knuckles, or other knuckles of metal, bowie knife or any kind of knife of weapon except a pocket-knife not manufactured and used for the purpose of offense and defense.

1901 Arizona 1251-53, Crimes Against the Public Peace, §§ 381, 385, 390.

§ 381. It shall be unlawful for any person (except a peace officer in actual service and discharge of his duty) , to have or carry concealed on or about his person, any pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass knuckles or other knuckles of metal, bowie-knife or any kind of knife or weapon, except a pocket knife, not manufactured and used for the purpose of offense and defense.

§ 385. If any person within any settlement, town, village or city within this territory shall carry on or about his person, saddle, or in saddlebags, any pistol, dagger, slung-shot, sword-cane, spear, brass knuckles, bowie- knife or any other

kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and in addition shall forfeit to the county in which he is convicted the weapon or weapons so carried.

§ 390. Persons travelling may be permitted to carry arms within settlements or towns of the territory, for one half hour after arriving in such settlements or towns, and while going out of such towns or settlements; and sheriffs and constables of the various counties of this territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties . . .

1901 Ariz. Acts 1252, Crimes and Punishments, §§ 387, 391.

§ 387. If any person shall go into church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show or public exhibition of any kind or into a ball room, social party or social gathering, to any election precinct, on the day or days of any election, where any portion of the people of this territory are collected to vote at any election, or to any other place where people may be assembled to minister, or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, bowie knife or any other kind of knife manufactured and sold for the purposes of offense or defense, he shall be punished by a fine not less than fifty or more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.

§ 391. It shall be the duty of the keeper of each and every hotel, boarding house and drinking saloon, to keep posted in a conspicuous place in his bar room, or reception room . . . a plain notice to travelers to divest themselves of their weapons in accordance with section 382 . . .

ARKANSAS

Slaves, in Laws of the Arkansas Territory 521 (J. Steele & J. M'Campbell, Eds., 1835).

Race and Slavery Based | Arkansas | 1835

§ 3. No slave or mulatto whatsoever, shall keep or carry a gun, powder, shot, club or other weapon whatsoever, offensive or defensive; but all and every gun weapon and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person and upon due proof made before any justice of the peace of the district [county] where such seizure shall be, shall by his order be forfeited to the seizer, for his own use, and moreover, every such offender shall have and

receive by order of such justice any number of lashes not exceeding thirty nine on his or her bare back well laid on for every such offense.

Josiah Gould A Digest of the Statutes of Arkansas All Laws of a General and Permanent Character in Force the Close of the Session of the General Assembly of 380 381–82. 1837.

Every person who shall wear any pistol, dirk, butcher or large knife, or a sword in a cane, concealed as a weapon, unless upon a journey, shall be adjudged guilty of a misdemeanor.

George Eugene Dodge, A Digest of the Laws and Ordinances of the City of Little Rock, with the Constitution of State of Arkansas, General Incorporation Laws, and All Acts of the General Assembly Relating to the City Page 230-231, Image 230-231 (1871) available at The Making of Modern Law: Primary Sources.

Sentence Enhancement for Use of Weapon | Arkansas | 1871

City Ordinances, § 287. Whenever there shall be found upon the person of any one, who has been found guilty of a breach of the peace, or for conduct calculated to provoke a breach of the peace, any pistol, revolver, bowie-knife, dirk, rifle, shot gun, slung-shot, colt, or knuckles of lead, brass or other metal; or when, upon trial, evidence shall be adduced proving that such weapons were in the possession or on the person of any one while in the act or commission of the act aforesaid, such person shall be fined not less than twenty-five nor more than five hundred dollars, in addition to the penalty for the breach of the peace aforesaid.

Act of Feb. 16, 1875, 1874-75 Ark. Acts 156.

§ 1. That any person who shall wear or carry any pistol of any kind whatever, or any dirk, butcher or bowie knife, or a sword or a spear in a cane, brass or metal knucks, or razor, as a weapon, shall be adjudged guilty of a misdemeanor, and upon conviction thereof, in the county in which said offense shall have been committed, shall be fined in any sum not less than twenty-five nor more than one hundred dollars, to be recovered by presentment or indictment in the Circuit Court, or before any Justice of the Peace of the county wherein such offense shall have been committed; Provided, That nothing herein contained shall be so construed as to prohibit any person wearing or carrying any weapon aforesaid on his own premises, or to prohibit persons traveling through the country, carrying such weapons while on a journey with their baggage, or to prohibit any officer of the law wearing or carrying such weapons when engaged in the discharge of his official duties, or any person summoned by any such officer to assist in the execution of any legal process, or any private person legally authorized to execute any legal process to him directed.

1881 Ark. Acts 191, An Act to Preserve the Public Peace and Prevent Crime, chap. XCVI (96), § 1-2.

That any person who shall wear or carry, in any manner whatever, as a weapon, any dirk or bowie knife, or a sword, or a spear in a cane, brass or metal knucks, razor, or any pistol of any kind whatever, except such pistols as are used in the army or navy of the United States, shall be guilty of a misdemeanor. . . . Any person, excepting such officers or persons on a journey, and on his premises, as are mentioned in section one of this act, who shall wear or carry any such pistol as i[s] used in the army or navy of the United States, in any manner except uncovered, and in his hand, shall be guilty of a misdemeanor.

CALIFORNIA

1849 Cal. Stat. 245, An Act to Incorporate the City of San Francisco, § 127.

[I]f any person shall have upon him any pistol, gun, knife, dirk, bludgeon, or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined not more than one hundred dollars or imprisoned in the county jail not more than three months.

S. Garfielde, *Compiled Laws of the State of California: Containing All the Acts of the Legislature of a Public and General Nature, Now in Force, Passed at the Sessions of 1850-51-52-53. To Which are Prefixed the Declaration of Independence, the Constitutions of the United States and of California, the Treaty of Queretaro, and the Naturalization Laws of the United States* Page 663-664, Image 682-683 (1853) available at *The Making of Modern Law: Primary Sources*. Sentence Enhancement for Use of Weapon | California | 1853
Compiled Laws of California, § 127.

If any person shall be found having upon him or her any picklock, crow, key, bitt, or other instrument or tool, with intent feloniously to break and enter into any dwelling house, store, shop, warehouse, or other building containing valuable property, or shall be found in any of the aforesaid buildings with intent to steal any money, goods, and chattels, every person so offending shall, on conviction thereof, be imprisoned in the county jail not more than two years; and if any person shall have upon him any pistol, gun, knife, dirk, bludgeon, or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined not more than one hundred dollars or imprisoned in the county jail not more than three months.

William H. R. Wood, Digest of the Laws of California: Containing All Laws of a General Character Which were in Force on the First Day of January, 1858; Also, the Declaration of Independence, Constitution of the United States, Articles of Confederation, Kentucky and Virginia Resolutions of 1798-99, Acts of Congress Relative to Public Lands and Pre-Emptions. Together with Judicial Decisions, Both of the Supreme Court of the United States and of California, to Which are Also Appended Numerous Forms for Obtaining Pre-Emption and Bounty Lands, Etc., Etc. Page 334, Image 340 (1861) available at The Making of Modern Law: Primary Sources.

Crimes and Punishments, Art. 1904. That any person in this state having, carrying or procuring from another person any dirk, dirk-knife, bowie-knife, sword, sword-cane, pistol, gun or other deadly weapon, who shall, in the presence of two or more persons, draw or exhibit any of said deadly weapons in a rude, angry and threatening manner, not in necessary self-defense, or who shall, in any manner, unlawfully use the same, in any fight or quarrel, the person or persons so offending, upon conviction thereof in any criminal court in any county of this state, shall be fined in any sum not less than one hundred, nor more than five hundred dollars, or imprisonment in the county jail not less than one nor more than six months, at the discretion of the court, or both such fine and imprisonment, together with the costs of prosecution; which said costs shall, in all cases be computed and collected in the same manner as costs in civil cases. . . provided, nevertheless, that no sheriff, deputy sheriff, marshal, constable or other peace officer, shall be held to answer under the provisions of this act, for drawing or exhibiting any of the weapons herein-before mentioned, while in the lawful discharge of his or their duties. . .

Theodore Henry Hittell, The General Laws of the State of California, from 1850 to 1864, Inclusive: Being a Compilation of All Acts of a General Nature Now in Force, with Full References to Repealed Acts, Special and Local Legislation, and Statutory Constructions of the Supreme Court. To Which are Prefixed the Declaration of Independence, Constitution of the United States, Treaty of Guadalupe Hidalgo, Proclamations to the People of California, Constitution of the State of California, Act of Admission, and United States Naturalization Laws, with Notes of California Decisions Thereon Page 261, Image 272 (1868) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | California | 1864

An Act to Prohibit the Carrying of Concealed Weapons, § 1.

Every person not being peace-officer, provost-marshal, enrolling-officer, or officer acting under the laws of the United States in the department of the provost-marshal of this State, State and Federal assessors, collectors of taxes and licenses while in

the performance of official duties, or traveler, who shall carry or wear any dirk, pistol, sword in cane, slungshot, or other dangerous or deadly weapon concealed, shall, upon conviction thereof before any court of competent jurisdiction, be deemed guilty of a misdemeanor, and shall be imprisoned in the county jail for not less than thirty nor more than ninety days, or fined in any sum not less than twenty nor more than two hundred dollars. § 2. Such persons, and no others, shall be deemed travelers within the meaning of this act, as may be actually engaged in making a journey at the time.

William. M. Caswell, Revised Charter and Compiled Ordinances and Resolutions of the City of Los Angeles Page 85, Image 83 (1878) available at The Making of Modern Law: Primary Sources. 1878

Ordinances of the City of Los Angeles, § 36. In future, no persons, except peace officers, and persons actually traveling, and immediately passing through Los Angeles city, shall wear or carry any dirk, pistol, sword in a cane, slung-shot, or other dangerous or deadly weapon, concealed or otherwise, within the corporate limits of said city, under a penalty of not more than one hundred dollars fine, and imprisonment at the discretion of the Mayor, not to exceed ten days. It is hereby made the duty of each police officer of this city, when any stranger shall come within said corporate limits wearing or carrying weapons, to, as soon as possible, give them information and warning of this ordinance; and in case they refuse or decline to obey such warning by depositing their weapons in a place of safety, to complain of them immediately.

L. W. Moultrie, City Attorney, Charter and Ordinances of the City of Fresno, 1896 Page 37, Image 35 (1896) available at The Making of Modern Law: Primary Sources. Misdemeanors. § 53.

No junk-shop keeper or pawnbroker shall hire, loan or deliver to any minor under the age of 18 years any gun, pistol or other firearm, dirk, bowie-knife, powder, shot, bullets or any weapon, or any combustible or dangerous material, without the written consent of the parent or guardian of such minor.

L. W. Moultrie, Charter and Ordinances of the City of Fresno Page 30, Image 28 (1896) available at The Making of Modern Law: Primary Sources.

Ordinances of the City of Fresno, § 8.

Any person excepting peace officers and travelers, who shall carry concealed upon his person any pistol or firearm, slungshot, dirk or bowie-knife, or other deadly weapon, without a written permission (revocable at any time) from the president of the board of trustees, is guilty of a misdemeanor.

1917 Cal. Sess. Laws 221-225, An act relating to and regulating the carrying, possession, sale or other disposition of firearms capable of being concealed upon the person; prohibiting the possession, carrying, manufacturing and sale of certain other dangerous weapons and the giving, transferring and disposition thereof to other persons within this state; providing for the registering of the sales of firearms; prohibiting the carrying or possession of concealed weapons in municipal corporations; providing for the destruction of certain dangerous weapons as nuisances and making it a felony to use or attempt to use certain dangerous weapons against another, § 5.

Carrying Weapons | California | 1917

§ 5. Any person who attempts to use, or who with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any loaded pistol, revolver, or other firearm, or any instrument or weapon commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, bomb, or bombshell or any other dangerous or deadly instrument or weapon, is guilty of a felony. The carrying or possession of any of the weapons specified in this section by any person while committing, or attempting or threatening to commit a felony, or breach of the peace, or any act of violence against the person or property of another, shall be presumptive evidence of carrying or possessing such weapon with intent to use the same in violation of this section.

1923 Cal. Stat. 695 An Act to Control and Regulate the Possession, Sale and Use of Pistols, Revolvers, and Other Firearms Capable of Being Concealed Upon the Person

Dangerous or Unusual Weapons, Felons, Foreigners and Others Deemed Dangerous By the State | California | 1923

§ 1. On and after the date upon which this act takes effect, every person who within the State of California manufactures or causes to be manufactured, or who imports into the state, or who keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition, or who carries concealed upon his person any dirk or dagger, shall be guilty of a felony and upon a conviction thereof shall be punishable by imprisonment in a state prison for not less than one year nor for more than five years.

§ 2. On and after the date upon which this act takes effect, no unnaturalized foreign born person and no person who has been convicted of a felony against the person or property of another or against the government of the United States or of the

State of California or of any political subdivision thereof shall own or have in his possession or under his custody or control any pistol, revolver or other firearm capable of being concealed upon the person.

COLORADO

1862 Colo. Sess. Laws 56, An Act To Prevent The Carrying Of Concealed Deadly Weapons In The Cities And Towns Of This Territory, § 1.

If any person or persons shall, within any city, town, or village in this Territory, whether the same is incorporated or not, carry concealed upon his or her person any pistol, bowie knife, dagger, or other deadly weapon, shall, on conviction thereof before any justice of the peace of the proper county, be fined in a sum not less than five, nor more than thirty-five dollars.

1867 Colo. Sess. Laws 229, Criminal Code, § 149.

Carrying Weapons | Colorado | 1867

If any person or persons shall, within any city, town or village in this territory, whether the same is incorporated or not, carry concealed upon his or her person, any pistol, bowie-knife, dagger or other deadly weapon, such person shall, on conviction thereof before any justice of the peace of the proper county, be fined in any sum not less than five nor more than thirty-five dollars. The provision of this section shall not be construed to apply to sheriffs, constables and police officers, when in the execution of their official duties.

1876 Colo. Const. 30, art. II, § 13.

Post-Civil War State Constitutions | Colorado | 1876

That the right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when hereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.

1876 Colo. Sess. Laws 304, General Laws, § 154:

[I]f any person shall have upon him any pistol, gun, knife, dirk, bludgeon, or other offensive weapon, with intent to assault any person, such person, on conviction shall be fined in any sum not exceeding five hundred dollars, or imprisoned in the county jail no exceeding six months.

Edward O. Wolcott, The Ordinances of Georgetown [Colorado] Passed June 7th, A.D. 1877, Together with the Charter of Georgetown, and the Amendments Thereto: A Copy of the Patent Heretofore Issued to Georgetown by the

Government of the United States, and the Rules and Order of Business Page 100, Image 101 (1877) available at The Making of Modern Law: Primary Sources.

Offenses Affecting Streets and Public Property, § 9.

If any person or persons, within the corporate limits of Georgetown, shall be found carrying concealed, upon his or her person, any pistol, bowie knife, dagger, or other deadly weapon, such person shall, on conviction thereof, be fined in a sum not less than five dollars, nor more than fifty dollars.

Colo. Rev. Stat 1774, Carrying Concealed Weapons—Penalty—Search Without Warrant—Jurisdiction of Justice, § 248. (1881)

No person, unless authorized so to do by the chief of police of a city, mayor of a town or the sheriff of a county, shall use or carry concealed upon his person any firearms, as defined by law, nor any pistol, revolver, bowie knife, dagger, sling shot, brass knuckles or other deadly weapon

Isham White, The Laws and Ordinances of the City of Denver, Colorado Page 369, Image 370 (1886) available at The Making of Modern Law: Primary Sources.

Sentence Enhancement for Use of Weapon | Colorado | 1886

City of Denver, Slung Shot – Brass Knuckles, § 10.

Whenever there shall be found upon the person of anyone who is guilty of a breach of the peace, or of conduct calculated to provoke a breach of the peace, any slung shot, colt, or knuckles of lead, brass or other metal, or, when upon trial, evidence shall be adduced proving that such weapons were in the possession or on the person of anyone while in the act of commission of the acts aforesaid, such person shall upon conviction be fined not less than twenty-five dollars nor more than three hundred dollars.

CONNECTICUT

Charles Stoers Hamilton, Charter and Ordinances of the City of New Haven, Together with Legislative Acts Affecting Said City Page 164, Image 167 (1890) available at The Making of Modern Law: Primary Sources.

Good Order and Decency § 192.

Every person who shall carry in said City, any steel or brass knuckles, pistol, or any slung shot, stiletto or weapon of similar character, or shall carry any weapon concealed on his person without permission of the Mayor or Superintendent of Police in writing, shall, on conviction, pay a penalty of not less than five, nor more than fifty dollars for every such offense.

DELAWARE

1797 Del. Laws 104, An Act For the Trial Of Negroes, ch. 43, § 6.

Race and Slavery Based | Delaware | 1797

And be it further enacted by the authority aforesaid, That if any Negro or Mulatto slave shall presume to carry any guns, swords, pistols, fowling pieces, clubs, or other arms and weapons whatsoever, without his master's special license for the same, and be convicted thereof before a magistrate, he shall be whipped with twenty-one lashes, upon his bare back.

1881 Del. Laws 987, An Act Providing for the Punishment of Persons Carrying Concealed Deadly Weapons, ch. 548, § 1.

That if any person shall carry concealed a deadly weapon upon or about his person other than an ordinary pocket knife, or shall knowingly sell a deadly weapon to a minor other than an ordinary pocket knife, such person shall, upon conviction thereof, be fined not less than twenty-five nor more than two hundred dollars or imprisoned in the county jail for not less than ten nor more than thirty days, or both at the discretion of the court: Provided, that the provisions of this section shall not apply to the carrying of the usual weapons by policemen and peace officers.

Revised Statutes of the State of Delaware, of Eight Hundred and Fifty-Two. As They Have Since Been Amended, Together with the Additional Laws of a Public and General Nature, Which Have Been Enacted Since the Publication of the Revised Code of Eighteen Fifty-Two. To the Year of Our Lord One Thousand Eight Hundred and Ninety-Three; to Which are Added the Constitutions of the United States and of this State, the Declaration of Independence, and Appendix Page 987, Image 1048 (1893) available at The Making of Modern Law: Primary Sources.

An Act Providing for the Punishment of Persons Carrying Concealed Deadly Weapons, § 1.

§ 1. That if any person shall carry concealed a deadly weapon upon or about his person other than an ordinary pocket knife, or shall knowingly sell a deadly weapon to a minor other than an ordinary pocket knife, such person shall, upon conviction thereof, be fined not less than twenty-five nor more than one hundred dollars or imprisoned in the county jail for not less than ten nor more than thirty days, or both at the discretion of the court: Provided, that the provisions of this section shall not apply to the carrying of the usual weapons by policemen and other peace officers.

§ 2. That if any person shall, except in lawful self-defense discharge any firearm in any public road in this State, shall be deemed guilty of a misdemeanor and upon

conviction thereof shall be punished by fine not exceeding fifty dollars or by imprisonment not exceeding one month, or both at the discretion of the court.

DISTRICT OF COLUMBIA

1 William B. Webb The Laws of the Corporation of the of Washington Digested and Arranged under Appropriate in Accordance with a Joint Resolution of the City 418 (1868), Act of Nov. 18, 1858.

It shall not be lawful for any person or persons to carry or have concealed about their persons any deadly or dangerous weapons, such as dagger, pistol, bowie knife, dirk knife, or dirk, colt, slungshot, or brass or other metal knuckles within the City of Washington; and any person or persons who shall be duly convicted of so carrying or having concealed about their persons any such weapon shall forfeit and pay upon such conviction not less than twenty dollars nor more than fifty dollars; which fines shall be prosecuted and recovered in the same manner as other penalties and forfeitures accruing to the city are sued for and recovered: Provided, That the Police officers when on duty shall be exempt from such penalties and forfeitures.

An Act to Prevent the Carrying of Concealed Weapons, Aug. 10, 1871, reprinted in Laws of the District of Columbia: 1871-1872, Part II, 33 (1872).

Carrying Weapons || 1871

Ch. XXV. Be in enacted by the Legislative Assembly of the District of Columbia, That it shall not be lawful for any person or persons to carry or have concealed about their persons any deadly or dangerous weapons, such as daggers, air-guns, pistols, bowie-knives, dirk-knives, or dirks, razors, razor-blades, sword-canes, slung-shots, or brass or other metal knuckles, within the District of Columbia; and any person or persons who shall be duly convicted of so carrying or having concealed about their persons any such weapons shall forfeit and pay, upon such a conviction, not less than twenty dollars nor more than fifty dollars, which fine shall be prosecuted and recovered in the same manner as other penalties and forfeitures are sued for and recovered: Provided, That the officers, non-commissioned officers, and privates of the United States army, navy, and marine corps, police officers, and members of any regularly organized militia company or regiment, when on duty, shall be exempt from such penalties and forfeitures.

Washington D.C. 27 Stat. 116 (1892)

CHAP. 159.—An Act to punish the carrying or selling of deadly or dangerous weapons within the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any person or persons within the District of Columbia, to have concealed about their person any deadly or dangerous weapons, such as daggers, air-guns, pistols, bowie-knives, dirk knives or dirks, blackjacks, razors, razor blades, sword canes, slung shot, brass or other metal knuckles.

SEC. 2. That it shall not be lawful for any person or persons within the District of Columbia to carry openly any such weapons as hereinbefore described with intent to unlawfully use the same, and any person or persons violating either of these sections shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for the first offense, forfeit and pay a fine or penalty of not less than fifty dollars nor more than five hundred dollars, of which one half shall be paid to any one giving information leading to such conviction, or be imprisoned in the jail of the District of Columbia not exceeding six months, or both such fine and imprisonment, in the discretion of the court: Provided, That the officers, non-commissioned officers, and privates of the United States Army, Navy, or Marine Corps, or of any regularly organized Militia Company, police officers, officers guarding prisoners, officials of the United States or the District of Columbia engaged in the execution of the laws for the protection of persons or property, when any of such persons are on duty, shall not be liable for carrying necessary arms for use in performance of their duty: Provided, further, that nothing contained in the first or second sections of this act shall be so construed as to prevent any person from keeping or carrying about his place of business, dwelling house, or premises any such dangerous or deadly weapons, or from carrying the same from place of purchase to his dwelling house or place of business or from his dwelling house or place of business to any place where repairing is done, to have the same repaired, and back again: Provided further, That nothing contained in the first or second sections of this act shall be so construed as to apply. to any person who shall have been granted a written permit to carry such weapon or weapons by any judge of the police court of the District of Columbia, and authority is hereby given to any such judge to grant such permit for a period of not more than one month at any one time, upon satisfactory proof to him of the necessity for the granting thereof; and further, upon the filing with such judge of a bond, with sureties to be approved by said judge, by the applicant for such permit, conditioned to the United States in such penal sum as said judge shall require for the keeping of the peace, save in the case of necessary self defense by such applicant during the continuance of said permit, which bond shall be put in suit by the United States for its benefit upon any breach of such condition.

SEC. 3. That for the second violation of the provisions of either of the preceding sections the person or persons offending shall be proceeded against by indictment

in the supreme court of the District of Columbia, and upon conviction thereof shall be imprisoned in the penitentiary for not more than three years.

SEC. 4. That all such weapons as hereinbefore described which may be taken from any person offending against any of the provisions shall, upon conviction of such person, be disposed of as may be ordered by the judge trying the case, and the record shall show any and all such orders relating thereto as a part of the judgment in the case.

SEC. 5. That any person or persons who shall, within the District of Columbia, sell, barter, hire, lend or give to any minor under the age of twenty-one years any such weapon as hereinbefore described shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, pay a fine or penalty of not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the jail of the District of Columbia not more than three months. No person shall engage in or conduct the business of selling, bartering, hiring, lending, or giving any weapon or weapons of the kind hereinbefore named without having previously obtained from the Commissioners of the District of Columbia a special license authorizing the conduct of such business by such person, and the said Commissioners are hereby authorized to grant such license, without fee therefor, upon the filing with them by the applicant therefor of a bond with sureties, to be by them approved, conditioned in such penal sum as they shall fix to the United States for the compliance by said applicant with all the provisions of this section; and upon any breach or breaches of said condition said bond shall be put in suit by said United States for its benefit, and said Commissioners may revoke said license. Any person engaging in said business without having previously obtained said special license shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars, of which one half shall be paid to the informer, if any, whose information shall lead to the conviction of the person paying said fine. All persons whose business it is to sell barter, hire, lend or give any such weapon or weapons shall be and they hereby, are, required to keep a written register of the name and residence of every purchaser, barterer, hirer, borrower, or donee of any such weapon or weapons, which register shall be subject to the inspection of the major and superintendent of Metropolitan Police of the District of Columbia, and further to make a weekly report, under oath to said major and superintendent of all such sales, barterings, hirings, lendings or gifts. And one half of every fine imposed under this section shall be paid to the informer, if any, whose information shall have led to the conviction of the person paying said fine. Any police officer failing to arrest any person guilty in his sight or presence and knowledge, of any violation of any section of this act shall be fined not less than fifty nor more than five hundred dollars.

SEC 6. That all acts or parts of acts inconsistent with the provisions of this act be, and the same hereby are, repealed.

FLORIDA

John P. Duval, Compilation of the Public Acts of the Legislative Council of the Territory of Florida, Passed Prior to 1840 Page 423, Image 425 (1839) available at The Making of Modern Law: Primary Sources, 1835.

An Act to Prevent any Person in this Territory from Carrying Arms Secretly. Be it Enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, it shall not be lawful for any person in this Territory to carry arms of any kind whatsoever secretly, on or about their persons; and if any dirk, pistol, or other arm, or weapon, except a common pocket-knife, shall be seen, or known to be secreted upon the person of any one in this Territory, such person so offending shall, on conviction, be fined not exceeding five hundred dollars, and not less than fifty dollars, or imprisoned not more than six months, and not less than one month, at the discretion of the jury: Provided, however, that this law shall not be so construed as to prevent any person from carrying arms openly, outside of all their clothes; and it shall be the duty of judges of the superior courts in this Territory, to give the matter contained in this act in special charge to the grand juries in the several counties in this Territory, at every session of the courts.

1838 Fla. Laws ch. 24, p. 36 (Feb. 10, 1838).

No. 24. An Act in addition to An Act, (approved January 30th, 1835) entitled An Act to prevent any person in this Territory from carrying arms secretly.

Section 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, it shall not be lawful for any person or persons in this Territory to vend dirks, pocket pistols, sword canes, or bowie knives, until he or they shall have first paid to the treasurer of the county in which he or they intend to vend weapons, a tax of two hundred dollars per annum, and all persons carrying said weapons openly shall pay to the officer aforesaid a tax of ten dollars per annum; and it shall be the duty of said officer to give the parties so paying a written certificate, stating that they have complied with the provisions of this act. Four fifths of all monies so collected to be applied by the county courts to county purposes, the other fifth to be paid to the prosecuting attorney.

Sec. 2. Be it further enacted, That if any person shall be known to violate this act, he or they so offending, shall be subject to an indictment, and on conviction, to a fine of not less than two hundred nor exceeding five hundred dollars, at the discretion of the court.

Sec. 3. Be it further enacted, That it shall be the duty of the several Judges of the Superior Courts of this Territory, to give this act in charge to the grand jurors [sic] of their respective districts at each term of the court.

Passed 5th February 1838.—Approved 10th Feb. 1838.

https://www.google.com/books/edition/Acts_of_the_Legislative_Council_of_the_T/-LIwAQAAMAAJ?hl=en&gbpv=1&dq=%22vend+dirks,+pocket+pistols,+sword+canes,+or+bowie+knives%22&pg=PA36&printsec=frontcover

Fla. Act of Aug. 8, 1868, as codified in Fla. Rev. Stat., tit. 2, pt. 5 (1892) 2425. Manufacturing or selling slung shot: Whoever manufactures, or causes to be manufactured, or sells or exposes for sale any instrument or weapon of the kind usually known as slung-shot, or metallic knuckles, shall be punished by imprisonment not exceeding six months, or by fine not exceeding one hundred dollars.

1868 Fla. Laws 2538, Persons Engaged in Criminal Offence, Having Weapons, chap. 7, § 10.

Sentence Enhancement for Use of Weapon | Florida | 1868

Whoever, when lawfully arrested while committing a criminal offense or a breach or disturbance of the public peace, is armed with or has on his person slung shot, metallic knuckles, billies, firearms or other dangerous weapon, shall be punished by imprisonment not exceeding three months, or by fine not exceeding one hundred dollars.

James F McClellan, A Digest of the Laws of the State of Florida: From the Year One Thousand Eight Hundred and Twenty-Two, to the Eleventh Day of March, One Thousand Eight Hundred and Eighty-One, Inclusive, Page 403, Image 419 (1881) available at The Making of Modern Law: Primary Sources. [1868] Offences Against Public Peace, § 13.

Whoever shall carry arms of any kind whatever, secretly, on or about their person, or whoever shall have about or on their person any dirk, pistol or other arm or weapon, except a common pocket knife, upon conviction thereof shall be fined in a sum not exceeding one hundred dollars, or imprisoned in the county jail not exceeding six months.

Florida Act of Aug. 6, 1888, chap. 1637, subchap. 7, § 10, as codified in Fla. Rev. State., tit. 2, pt. 5 (1892) 2423.

Persons Engaged in criminal offense having weapons. – Whoever, when lawfully arrested while committing a criminal offense or a breach or disturbance of the

public peace is armed or has on his person slung-shot, metallic knuckles, billies, firearms or other dangerous weapon, shall be punished by imprisonment not exceeding one year and by fine not exceeding fifty dollars.

GEORGIA

Lucius Q.C. Lamar, A Compilation of the Laws of the State of Georgia, Passed by the Legislature since the Year 1810 to the Year 1819, Inclusive. Comprising all the Laws Passed within those Periods, Arranged under Appropriate Heads, with Notes of Reference to those Laws, or Parts of Laws, which are Amended or Repealed to which are Added such Concurred and Approved Resolutions, as are Either of General, Local, or Private Moment. Concluding with a Copious Index to the Laws, a Separate one to the Resolutions Page 599, Image 605 (1821) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Georgia | 1816

Offences Against the Public Peace, (1816) § 19.

If any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit or other implement, with intent feloniously to break and enter into any dwelling-house, ware-house, store, shop, coach-house, stable, or out-house, or shall have upon him any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent feloniously to assault any person, or shall be found in or upon any dwelling-house, ware-house, store, shop, coach-house, stable, or out-house, with intent to steal any goods or chattels; every such person shall be deemed a rogue and vagabond, and on conviction, shall be sentenced to undergo an imprisonment in the common jail of the county, or in the penitentiary, at hard labour, for such period of time as the jury shall recommend to the court.

1837 Ga. Acts 90, An Act to Guard and Protect the Citizens of this State, Against the Unwarrantable and too Prevalent use of Deadly Weapons, §§ 1–4.

§ 1 . . . it shall not be lawful for any merchant, or vender of wares or merchandize in this State, or any other person or persons whatsoever, to sell, or offer to sell, or to keep, or to have about their person or elsewhere, any of the hereinafter described weapons, to wit: Bowie, or any other kinds of knives, manufactured and sold for the purpose of wearing, or carrying the same as arms of offence or defense, pistols, dirks, sword canes, spears, &c., shall also be contemplated in this act, save such pistols as are known and used as horseman's pistols, &c.

§ 2. And be it further enacted by the authority aforesaid, That any person or persons within the limits of this State, violating the provisions of this act, except as hereafter excepted, shall, for each and every such offence, be deemed guilty of a high misdemeanor, and upon trial and conviction thereof, shall be fined, in a sum

not exceeding five hundred dollars for the first offence, nor less than one hundred dollars at the direction of the Court; and upon a second conviction, and every after conviction of a like offence, in a sum not to exceed one thousand dollars, nor less than five hundred dollars, at the discretion of the Court.

§ 3. And be it further enacted by the authority aforesaid, That it shall be the duty of all civil officers, to be vigilant in carrying the provisions of this act into full effect, as well also as Grand Jurors, to make presentments of each and every offence under this act, which shall come under their knowledge.

§4. And be it further enacted by the authority aforesaid, That all fines and forfeitures arising under this act, shall be paid into the county Treasury, to be appropriated to county purposes: Provided, nevertheless, that the provisions of this act shall not extend to Sheriffs, Deputy Sheriffs, Marshals, Constables, Overseers or Patrols, in actual discharge of their respective duties, but not otherwise: Provided, also, that no person or persons, shall be found guilty of violating the before recited act, who shall openly wear, externally, Bowie Knives, Dirks, Tooth Picks, Spears, and which shall be exposed plainly to view: And provided, nevertheless, that the provisions of this act shall not extend to prevent venders, or any other persons who now own and have for sale, any of the aforesaid weapons, before the first day of March next.

1860 Ga. Laws 56, An Act to add an additional Section to the 13th Division of the Penal Code, making it penal to sell to or furnish slaves or free persons of color, with weapons of offence and defence; and for other purposes therein mentioned, § 1.

[A]ny person other than the owner, who shall sell or furnish to any slave or free person of color, any gun, pistol, bowie knife, slung shot, sword cane, or other weapon used for the purpose of offence or defense, shall, on indictment and conviction, be fined by the Court in a sum not exceeding five hundred dollars, and imprisoned in the common Jail of the county not exceeding six months . . .

R. H. Clark, The Code of the State of Georgia (1873) § 4528 – Deadly weapons not to be carried in public places

No person in this State is permitted or allowed to carry about his or her person, any dirk, bowie knife, pistol or revolver, or any kind of deadly weapon, to any Court of justice, or any election ground, or precinct, or any place of public worship, or any other public gathering in this State, except militia muster grounds; and if any person or persons shall violate any portion of this section, he, she or they shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than twenty nor more than fifty dollars for each and every such offense, or

imprisonment in the common jail of the county not less than ten nor more than twenty days, or both, at the discretion of the Court.

HAWAII

1852 Haw. Sess. Laws 19, Act to Prevent the Carrying of Deadly Weapons Dangerous or Unusual Weapons | Hawaii | 1852

§ 1. Any person not authorized by law, who shall carry, or be found armed with, any bowie-knife, sword-cane, pistol, air-gun, slung-shot or other deadly weapon, shall be liable to a fine of no more than Thirty, and no less than Ten Dollars, or in default of payment of such fine, to imprisonment at hard labor, for a term not exceeding two months and no less than fifteen days, upon conviction of such offense before any District Magistrate, unless good cause be shown for having such dangerous weapons: and any such person may be immediately arrested without warrant by the Marshal or any Sheriff, Constable or other officer or person and be lodged in prison until he can be taken before such Magistrate.

1913 Haw. Rev. Laws ch. 209, § 3089, Carrying Deadly Weapons Dangerous or Unusual Weapons | Hawaii | 1913

§ 3089. Persons not authorized; punishment. Any person not authorized by law, who shall carry, or be found armed with any bowie-knife, sword-cane, pistol, air-gun, slung-shot, or other deadly weapon, shall be liable to a fine of not more than Two Hundred and Fifty Dollars and not less than Ten Dollars, or in default of payment of such fine, to imprisonment of a term not exceeding one year, nor less than three months, upon conviction for such offense, unless good cause be shown for having such dangerous weapon; and any such person may be immediately arrested without warrant by the high sheriff, or any sheriff, policeman, or other officer or person.

IDAHO

Crimes and Punishments, in Compiled and Revised Laws of the Territory of Idaho 354 (M. Kelly, Territorial Printer 1875).

Carrying Weapons | Idaho | 1875

§ 133. If any person shall have found upon him or her any pick-lock, crow-key, bit or other instrument or tool, with intent feloniously to crack and enter into any dwelling-house, store, shop, warehouse, or other building containing valuable property, or shall be found in the aforesaid buildings with intent to steal any money, goods and chattels, every person so offending shall, on conviction thereof, be imprisoned in the Territorial prison for a term not less than one year nor more

than five years; and if any person shall have upon him or her any pistol, gun, knife, dirk, bludgeon, or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined not more than one hundred dollars, or imprisoned in the county jail not more than three months.

Charter and Revised Ordinances of Boise City, Idaho. In Effect April 12, 1894
Page 118-119, Image 119-120 (1894) available at The Making of Modern Law:
Primary Sources.

Carrying Weapons | Idaho | 1879

Carrying Concealed Weapons, § 36.

Every person not being a sheriff, deputy sheriff, constable or other police officer, who shall carry or wear within the incorporated limits of Boise City, Idaho, any bowie knife, dirk knife, pistol or sword in cane, slung-shot, metallic knuckles, or other dangerous or deadly weapons, concealed, unless such persons be traveling or setting out on a journey, shall, upon conviction thereof before the city magistrate of said Boise City, be fined in any sum not exceeding twenty-five dollars for each offense, or imprisoned in the city jail for not more than twenty days, or by both such fine and imprisonment.

1909 Id. Sess. Laws 6, An Act To Regulate the Use and Carrying of Concealed Deadly Weapons and to Regulate the Sale or Delivery of Deadly Weapons to Minors Under the Age of Sixteen Years to Provide a Penalty for the Violation of the Provisions of this Act, and to Exempt Certain Persons, § 1.

Carrying Weapons | Idaho | 1909

If any person, (excepting officials of a county, officials of the State of Idaho, officials of the United States, peace officers, guards of any jail, any officer of any express company on duty), shall carry concealed upon or about his person any dirk, dirk knife, bowie knife, dagger, slung shot, pistol, revolver, gun or any other deadly or dangerous weapon within the limits or confines of any city, town or village, or in any public assembly, or in any mining, lumbering, logging, railroad, or other construction camp within the State of Idaho

ILLINOIS

Mason Brayman, Revised Statutes of the State of Illinois: Adopted by the General Assembly of Said State, at Its Regular Session, Held in the Years A. D. 1844-'5: Together with an Appendix Containing Acts Passed at the Same and Previous Sessions, Not Incorporated in the Revised Statutes, but Which Remain in Force
Page 176, Image 188 (1845) available at The Making of Modern Law: Primary Sources.

Sentence Enhancement for Use of Weapon | Illinois | 1845

Criminal Jurisprudence, § 139. If any person shall be found,, having upon him or her, any pick-lock, crow, key, bit, or other instrument or tool, with intent feloniously to break and enter into any dwelling house, store, warehouse, shop or other building containing valuable property, or shall be found in any of the aforesaid buildings with intent to steal any goods and chattels, every such person so offending, shall, on conviction, be deemed a vagrant, and punished by confinement in the penitentiary, for any term not exceeding two years. And if any person shall have upon him any pistol, gun, knife, dirk, bludgeon or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined, in a sum not exceeding one hundred dollars, or imprisoned, not exceeding three months.

Harvey Bostwick Hurd, The Revised Statutes of the State of Illinois. A. D. 1874. Comprising the Revised Acts of 1871-2 and 1873-4, Together with All Other General Statutes of the State, in Force on the First Day of July, 1874 Page 360, Image 368 (1874) available at The Making of Modern Law: Primary Sources. Disorderly Conduct: Disturbing the Peace, § 56.

Whoever, at a late and unusual hour of the night time, willfully and maliciously disturbs the peace and quiet of any neighborhood or family, by loud or unusual noises, or by tumultuous or offensive carriage, threatening, traducing, quarreling, challenging to fight or fighting, or whoever shall carry concealed weapons, or in a threatening manner display any pistol, knife, slungshot, brass, steel or iron knuckles, or other deadly weapon, day or night, shall be fined not exceeding \$100.

Consider H. Willett, Laws and Ordinances Governing the Village of Hyde Park [Illinois] Together with Its Charter and General Laws Affecting Municipal Corporations; Special Ordinances and Charters under Which Corporations Have Vested Rights in the Village. Also, Summary of Decisions of the Supreme Court Relating to Municipal Corporations, Taxation and Assessments Page 64, Image 64 (1876) available at The Making of Modern Law: Primary Sources.

Misdemeanors, § 39.

No person, except peace officers, shall carry or wear under their clothes, or concealed about their person, any pistol, revolver, slung-shot, knuckles, bowie-knife, dirk-knife, dirk, dagger, or any other dangerous or deadly weapon, except by written permission of the Captain of Police.

Harvey Bostwick Hurd, Late Commissioner, The Revised Statutes of the State of Illinois. 1882. Comprising the “Revised Statutes of 1874,” and All Amendments Thereto, Together with the General Acts of 1875, 1877, 1879, 1881 and 1882, Being All the General Statutes of the State, in Force on the First Day of December, 1882 Page 375, Image 392 (1882) available at The Making of Modern Law:

Primary Sources. [1881]

Deadly Weapons: Selling or Giving to Minor. § 54b.

Whoever, not being the father, guardian, or employer or the minor herein named, by himself or agent, shall sell, give, loan, hire or barter, or shall offer to sell, give, loan, hire or barter to any minor within this state, any pistol, revolver, derringer, bowie knife, dirk or other deadly weapon of like character, capable of being secreted upon the person, shall be guilty of a misdemeanor, and shall be fined in any sum not less than twenty-five dollars (\$25), nor more than two hundred (\$200).

Revised Ordinances of the City of Danville [Illinois] Page 66, Image 133 (1883) available at The Making of Modern Law: Primary Sources.

Ordinances of the City of Danville. Concealed Weapons. § 22.

Whoever shall carry concealed upon or about his person any pistol, revolver, derringer, bowie-knife, dirk, slung-shot, metallic knuckles, or a razor, as a weapon, or any other deadly weapon of like character, capable or being concealed upon the person, or whoever shall in a threatening or boisterous manner, flourish or display the same, shall be fined not less than one dollar, nor more than one hundred dollars; and in addition to the said penalty shall, upon the order of the magistrate before whom such conviction is had, forfeits the weapon so carried to the city.

Illinois Act of Apr. 16, 1881, as codified in Ill. Stat. Ann., Crim. Code, chap. 38 (1885) 88. Possession or sale forbidden, § 1.

Be it enacted by the people of the state of Illinois represented in the General Assembly. That whoever shall have in his possession, or sell, or give or loan, hire or barter, or whoever shall offer to sell, give loan, have or barter, to any person within this state, any slung shot or metallic knuckles, or other deadline weapon of like character, or any person in whose possession such weapons shall be found, shall be guilty of a misdemeanor . . .

INDIANA

1804 Ind. Acts 108, A Law Entitled a Law Respecting Slaves, § 4.

And be it further enacted, That no slave or mulatto whatsoever shall keep or carry any gun, powder, shot, club or other weapon whatsoever, offensive or defensive, but all and every gun weapon and ammunition found in the possession or custody

of any negro or mulatto, may be seized by any person and upon due proof thereof made before any justice of the peace of the district where such seizure shall be, shall by his order be forfeited to the seizor, for his use and moreover every such offender shall have and receive by order of such justice any number of loashes not exceeding thirty nine on his or her bare back, well laid for every such offense.

1855 Ind. Acts 153, An Act To Provide For The Punishment Of Persons Interfering With Trains or Railroads, chap. 79, § 1.

That any person who shall shoot a gun, pistol, or other weapon, or throw a stone, stick, clubs, or any other substance whatever at or against any locomotive, or car, or train of cars containing persons on any railroad in this State, shall be deemed guilty of a misdemeanor . . .

1859 Ind. Acts 129, An Act to Prevent Carrying Concealed or Dangerous Weapons, and to Provide Punishment Therefor.

§ 1. Be it enacted by the General Assembly of the State of Indiana, That every person not being a traveler, who shall wear or carry any dirk, pistol, bowie-knife, dagger, sword in cane, or any other dangerous or deadly weapon concealed, or who shall carry or wear any such weapon openly, with the intent or avowed purpose of injuring his fellow man, shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars.

1875 Ind. Acts 62, An Act Defining Certain Misdemeanors, And Prescribing Penalties Therefore, § 1.

That if any person shall draw or threaten to use any pistol, dirk, knife, slung shot, or any other deadly or dangerous weapon upon any other person he shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be fined in any sum not less than one nor more than five hundred dollars, to which may be added imprisonment in the county jail not to exceed six months; That the provisions of this act shall not apply to persons drawing or threatening to use such dangerous or deadly weapons in defense of his person or property, or in defense of those entitled to his protection by law.

The Revised Statutes of Indiana: Containing, Also, the United States and Indiana Constitutions and an Appendix of Historical Documents. Vol. 1 Page 366, Image 388 (1881) available at The Making of Modern Law: Primary Sources.

Sensitive Places and Times | Indiana | 1881

Crimes. § 1957. Attacking Public Conveyance. 56. Whoever maliciously or mischievously shoots a gun, rifle, pistol, or other missile or weapon, or throws a stone, stick, club, or other substance whatever, at or against any stage-coach,

locomotive, railroad-car, or train of cars, or street-car on any railroad in this State, or at or against any wharf-boat, steamboat, or other water-craft, shall be imprisoned in the county jail not more than one year nor less than thirty days, and fined not more than one hundred dollars nor less than ten dollars.

1905 Ind. Acts 677, Public Conveyance—Attacking, § 410.

Sensitive Places and Times | Indiana | 1905

Whoever maliciously or mischievously shoots a gun, rifle, pistol or other weapon, or throws a stone, stick, club or any other substance whatever, at or against any stage coach, or any locomotive, railroad car, or train of cars, street car, or interurban car on any railroad in this state, or at or against any wharf-boat, steamboat, or other watercraft, shall be imprisoned in the county jail not less than thirty days nor more than one year, and fined not less than ten dollars nor more than one hundred dollars.

IOWA

S. J. Quincy, Revised Ordinances of the City of Sioux City. Sioux City, Iowa Page 62, Image 62 (1882) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Iowa | 1882

Ordinances of the City of Sioux City, Iowa, § 4.

No person shall, within the limits of the city, wear under his clothes, or concealed about his person, any pistol, revolver, slung-shot, cross-knuckles, knuckles of lead, brass or other metal, or any bowie-knife, razor, billy, dirk, dirk-knife or bowie-knife, or other dangerous weapon. Provided, that this section shall not be so construed as to prevent any United States, State, county, or city officer or officers, or member of the city government, from carrying any such weapon as may be necessary in the proper discharge of his official duties.

Geoffrey Andrew Holmes, Compiled Ordinances of the City of Council Bluffs, and Containing the Statutes Applicable to Cities of the First-Class, Organized under the Laws of Iowa Page 206-207, Image 209-210 (1887) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Iowa | 1887

Carrying Concealed Weapons Prohibited, § 105.

It shall be unlawful for any person to carry under his clothes or concealed about his person, or found in his possession, any pistol or firearms, slungshot, brass knuckles, or knuckles of lead, brass or other metal or material, or any sand bag, air guns of any description, dagger, bowie knife, or instrument for cutting, stabbing or striking, or other dangerous or deadly weapon, instrument or device; provided that

this section shall not be construed to prohibit any officer of the United States, or of any State, or any peace officer, from wearing and carrying such weapons as may be convenient, necessary and proper for the discharge of his official duties.

William H. Baily, The Revised Ordinances of Nineteen Hundred of the City of Des Moines, Iowa Page 89-90, Image 89-90 (1900) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Iowa | 1900

Ordinances City of Des Moines, Weapons, Concealed, § 209.

It shall be unlawful for any person to carry under his clothes or concealed about his person, or found in his possession, any pistol or other firearms, slungshot, brass knuckles, or knuckles of lead, brass or other metal or material, or any sand bag, air guns of any description, dagger, bowie knife, dirk knife, or other knife or instrument for cutting, stabbing or striking, or other dangerous or deadly weapon, instrument or device. Provided, that this section shall not be construed to prohibit any officer of the United States or of any State, or any peace officer from wearing or carrying such weapons as may be convenient, necessary and proper for the discharge of his official duties.

1913 Iowa Acts 307, ch. 297, § 2

§ 1. It shall be unlawful for any person, except as hereinafter provided, to go armed with and have concealed upon his person a dirk, dagger, sword, pistol, revolver, stiletto, metallic knuckles, picket billy, sand bag, skull cracker, slung-shot, or other offensive and dangerous weapons or instruments concealed upon his person.

KANSAS

C. B. Pierce, Charter and Ordinances of the City of Leavenworth, with an Appendix Page 45, Image 45 (1863) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Kansas | 1862

An Ordinance Relating to Misdemeanors, § 23.

For carrying or having on his or her person in a concealed manner, any pistol, dirk, bowie knife, revolver, slung shot, billy, brass, lead or iron knuckles, or any other deadly weapon within this city, a fine not less than three nor more than one hundred dollars.

Samuel Kimball, Charter, Other Powers, and Ordinances of the City of Lawrence Page 149, Image 157 (1866) available at The Making of Modern Law: Primary Sources, 1863.

Nuisances, § 10. Any person who shall in this city have or carry concealed or partially concealed, upon his person, any pistol, bowie knife or other deadly weapon, shall, on conviction, be fined not less than one nor more than ten dollars; Provided, This section shall not apply to peace officers of the city or state. The carrying of a weapon in a holster, exposed to full view, shall not be deemed a concealed or partially concealed weapon under this section.

The General Statutes of the State of Kansas, to Which the Constitutions of the United State of Kansas, Together with the Organic Act of the Territory of Kansas, the Treaty Ceding the Territory of Louisiana to the United States, and the Act Admitting Kansas into the Union are Prefixed Page 378, Image 387 (1868) available at The Making of Modern Law: Primary Sources, 1868.

Crimes and Punishments, § 282. Any person who is not engaged in any legitimate business, any person under the influence of intoxicating drink, and any person who has ever borne arms against the government of the United States, who shall be found within the limits of this state, carrying on his person a pistol, bowie-knife, dirk or other deadly weapon, shall be subject to arrest upon the charge of misdemeanor, and upon conviction shall be fined in a sum not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months, or both, at the discretion of the court.

Revised Ordinances of the City of Salina, Together with the Act Governing Cities of the Second Class: Also a Complete List of the Officers of Salina During its Organization as a Town and City of the Second and Third Class Page 99, Image 100 (1879) available at The Making of Modern Law: Primary Sources. 1879 Ordinances of the City of Salina, An Ordinance Relating to the Carrying of Deadly Weapons, § 1. That it shall be unlawful for any person to carry on or about his person any pistol, bowie knife, dirk, or other deadly or dangerous weapon, anywhere within the limits of the city of Salina, save and except as hereinafter provided. § 2. This ordinance shall not apply to cases when any person carrying any weapon above mentioned is engaged in the pursuit of any lawful business, calling or employment and the circumstances in which such person is placed at the time aforesaid, are such as to justify a prudent man in carrying such weapon, for the defense of his person, property or family, nor to cases where any person shall carry such weapon openly in his hands, for the purpose of sale, barter, or for repairing the same, or for use in any lawful occupation requiring the use of the same. § 3. Any person violating any of the provisions of this ordinance shall, upon

conviction thereof before the police court, be fined in any sum not less than twenty-five nor more than one hundred dollars.

1881 Kan. Sess. Laws 92, c. 37, § 24.

The Council shall prohibit and punish the carrying of firearms, or other dangerous or deadly weapons, concealed or otherwise, and cause to be arrested and imprisoned, fined or set to work, all vagrants, tramps, confidence men and persons found in said city without visible means of support or some legitimate business.

1883 Kan. Sess. Laws 159, An Act To Prevent Selling, Trading Or Giving Deadly Weapons Or Toy Pistols To Minors, And To Provide Punishment Therefor, §§ 1-2.

§ 1. Any person who shall sell, trade, give, loan or otherwise furnish any pistol, revolver, or toy pistol, by which cartridges or caps may be exploded, or any dirk, bowie knife, brass knuckles, slung shot, or other dangerous weapons to any minor, or to any person of notoriously unsound mind, shall be deemed guilty of a misdemeanor, and shall upon conviction before any court of competent jurisdiction, be fined not less than five nor more than one hundred dollars.

§ 2. Any minor who shall have in his possession any pistol, revolver or toy pistol, by which cartridges may be exploded, or any dirk, bowie-knife, brass knuckles, slung shot or other dangerous weapon, shall be deemed guilty of a misdemeanor, and upon conviction before any court of competent jurisdiction shall be fined not less than one nor more than ten dollars.

1883 Kan. Sess. Laws 159, An Act To Prevent Selling, Trading Or Giving Deadly Weapons Or Toy Pistols To Minors, And To Provide Punishment Therefor, §§ 1-2.

§ 1. Any person who shall sell, trade, give, loan or otherwise furnish any pistol, revolver, or toy pistol, by which cartridges or caps may be exploded, or any dirk, bowie knife, brass knuckles, slung shot, or other dangerous weapons to any minor, or to any person of notoriously unsound mind, shall be deemed guilty of a misdemeanor, and shall upon conviction before any court of competent jurisdiction, be fined not less than five nor more than one hundred dollars.

§ 2. Any minor who shall have in his possession any pistol, revolver or toy pistol, by which cartridges may be exploded, or any dirk, bowie-knife, brass knuckles, slung shot or other dangerous weapon, shall be deemed guilty of a misdemeanor, and upon conviction before any court of competent jurisdiction shall be fined not less than one nor more than ten dollars.

O. P. Ergenbright, Revised Ordinances of the City of Independence, Kansas: Together with the Amended Laws Governing Cities of the Second Class and

Standing Rules of the City Council Page 162, Image 157 (1887) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Kansas | 1887

Weapons, § 27. Any person who in this city shall draw any pistol or other weapon in a hostile manner, or shall make any demonstration or threat of using such weapon on or against any person; or any person who shall carry or have on his or her person, in a concealed manner, any pistol, dirk, bowie-knife, revolver, slung-shot, billy, brass, lead, or iron knuckles, or any deadly weapon, within this city, shall be fined not less than five dollars, nor more than one hundred dollars:

Provided, that this ordinance shall not be so construed as to prohibit officers of the law while on duty from being armed.

Bruce L. Keenan, Book of Ordinances of the City of Wichita Published by Authority of a Resolution Adopted by the City Council April 24, 1899, under the Direction of Judiciary Committee and City Attorney, and Formally Authorized by Ordinance No. 1680 Page 46, Image 70 (1900) available at The Making of Modern Law: Primary Sources. 1899

Ordinances of the City of Wichita, Carrying Unconcealed Deadly Weapons, § 2. Any person who shall in the city of Wichita carry unconcealed, any fire-arms, slungshot, sheath or dirk knife, or any other weapon, which when used is likely to produce death or great bodily harm, shall upon conviction, be fined not less than one dollar nor more than twenty-five dollars. Using or Carrying Bean Snapper, § 3. Any person who shall, in the city of Wichita, use or carry concealed or unconcealed, any bean snapper or like articles shall upon conviction be fined in any sum not less than one dollar nor more than twenty-five dollars. Carrying Concealed Deadly Weapons, § 4. Any person who shall in the city of Wichita, carry concealed about his person any fire-arm, slung shot, sheath or dirk knife, brass knuckles, or any weapon, which when used is likely to produce death or great bodily harm, shall upon conviction, be fined in any sum not exceeding one hundred dollars.

KENTUCKY

1798 Ky. Acts 106. No negro, mulatto, or Indian whatsoever shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive but all and every gun, weapon and ammunition found in the possession or custody of any negro, mulatto or Indian may be seized by any person and upon due proof thereof made before any justice of the peace of the county where such seizure shall be shall by his order, be forfeited to the seizer for his own use, and moreover every

such offender shall have and receive by order of such justice any number of lashes not exceeding thirty nine on his or her back, well laid for every such offense.

1859 Ky. Acts 245, An Act to Amend An Act E ntitled “An Act to Reduce to One the Several Acts in Relation to the Town of Harrodsburg, § 23.

If any person, other than the parent or guardian, shall sell, give or loan, any pistol, dirk, bowie knife, brass knucks, slung-shot, colt, cane-gun, or other deadly weapon, which is carried concealed, to any minor, or slave, or free negro, he shall be fined fifty dollars.

LOUISIANA

1813 La. Acts 172, An Act Against Carrying Concealed Weapons, and Going Armed in Public Places in an Unneccessary Manner, § 1.

Carrying Weapons | Louisiana | 1813

Be it enacted by the senate and house of representatives of the state of Louisiana, in general assembly convened, That from and after the passage of this act, any person who shall be found with any concealed weapon, such as a dirk, dagger, knife, pistol, or any other deadly weapon concealed in his bosom, coat, or in any other place about him that do not appear in full open view, any person so offending, shall on conviction thereof before any justice of the peace, be subject to pay a fine

Henry A. Bullard & Thomas Curry, 1 A New Digest of the Statute Laws of the State of Louisiana, from the Change of Government to the Year 1841 at 252 (E. Johns & Co., New Orleans, 1842).

Carrying Weapons | Louisiana | 1842

[A]ny person who shall be found with any concealed weapon, such as a dirk, dagger, knife, pistol, or any other deadly weapon concealed in his bosom, coat, or in any other place about him, that do not appear in full open view, any person so offending, shall, on conviction thereof, before an justice of the peace, be subject to pay a fine not to exceed fifty dollars, nor less than twenty dollars

Louisiana 1855 law 1855 La. L. Chap. 120, Sec. 115, p. 148

Sec. 115, Be it further enacted, &c., That whoever shall carry a weapon or weapons concealed on or about his person, such as pistols, bowie knife, dirk, or any other dangerous weapon, shall be liable to prosecution by indictment or presentnient, and on conviction for the first offence shall be fined not less than two hundred and fifty dollars nor more than five hundred dollars, or imprisonment for one month; and for the second offence not less than five hundred dollars nor more

than one thousand dollars, or imprisonment in the parish prison at the discretion of the court, not to exceed three months, and that it shall be the duty of the Judges of the District Courts in this State to charge the Grand Jury, specially as to this section.

<https://babel.hathitrust.org/cgi/pt?id=osu.32437123281277&view=1up&seq=300&q1=Bowie>

1870 La. Acts 159–60, An Act to Regulate the Conduct and to Maintain the Freedom of Party Election . . . , § 73.

Subject(s): Sensitive Places and Times

[I]t shall be unlawful for any person to carry any gun, pistol, bowie knife or other dangerous weapon, concealed or unconcealed, on any day of election during the hours the polls are open, or on any day of registration or revision of registration, within a distance of one-half mile of any place of registration or revision of registration; any person violating the provisions of this section shall be deemed guilty of a misdemeanor; and on conviction shall be punished by a fine of not less than one hundred dollars, and imprisonment in the parish jail not less than one month

La. Const. of 1879, art. III.

Post-Civil War State Constitutions | Louisiana | 1879

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be abridged. This shall not prevent the passage of laws to punish those who carry weapons concealed.

MAINE

An Act to Prevent Routs, Riots, and Tumultuous assemblies, and the Evil Consequences Thereof, reprinted in CUMBERLAND GAZETTE (Portland, MA.), Nov. 17, 1786, at 1. On October 26, 1786 the following was passed into law by the Massachusetts Assembly: That from & after the publication of this act, if any persons, to the number of twelve, or more, being armed with clubs or other weapons; or if any number of persons, consisting of thirty, or more, shall be unlawfully, routously, riotously or tumultuously assembled, any Justice of the Peace, Sheriff, or Deputy ... or Constable ... shall openly make [a] proclamation [asking them to disperse, and if they do not disperse within one hour, the officer is] ... empowered, to require the aid of a sufficient number of persons in arms ... and if any such person or persons [assembled illegally] shall be killed or wounded, by reason of his or their resisting the persons endeavoring to disperse or seize them, the said Justice, Sheriff, Deputy-Sheriff, Constable and their assistants, shall be indemnified, and held guiltless.

The Revised Statutes of the State of Maine, Passed October 22, 1840; To Which are Prefixed the Constitutions of the United States and of the State of Maine, and to Which Are Subjoined the Other Public Laws of 1840 and 1841, with an Appendix Page 709, Image 725 (1847) available at The Making of Modern Law: Primary Sources.

Justices of the Peace, § 16.

Any person, going armed with any dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without a reasonable cause to fear an assault on himself, or any of his family or property, may, on the complaint of any person having cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term, not exceeding one year, with the right of appeal as before provided.

1841 Me. Laws 709, ch. 169, § 16.

If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

The Revised Statutes of the State of Maine, Passed August 29, 1883, and Taking Effect January 1, 1884 Page 928, Image 955 (1884) available at The Making of Modern Law: Primary Sources.

Prevention of Crimes, § 10.

Whoever goes armed with any dirk, pistol, or other offensive and dangerous weapon, without just cause to fear an assault on himself, family, or property, may, on complaint of any person having cause to fear an injury or breach of the peace, be required to find sureties to keep the peace for a term not exceeding one year, and in case of refusal, may be committed as provided in the preceding sections.

MARYLAND

The Laws Of Maryland, With The Charter, The Bill Of Rights, The Constitution Of The State, And Its Alterations, The Declaration Of Independence, And The Constitution Of The United States, And Its Amendments Page 465, Image 466 (1811) available at The Making of Modern Law: Primary Sources.

Sentence Enhancement for Use of Weapon | Maryland | 1809 If any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit or other implement, with an intent feloniously to break and enter into any dwelling-house, ware-house, stable or out-house, or shall have upon him or her any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent feloniously to assault any person, or shall be found in or upon any dwelling-house, warehouse, stable or out-house, or in any enclosed yard or garden, or area belonging to any house, with an intent to steal any goods or chattels, every such person shall be deemed a rouge and vagabond, and, on being duly convicted thereof, shall be sentenced to undergo a confinement in the said penitentiary for a period of time not less than three months nor more than two years, to be treated as law prescribes.

1872 Md. Laws 57, An Act To Add An Additional Section To Article Two Of The Code Of Public Local Laws, Entitled “Anne Arundel County,” Sub-title “Annapolis,” To Prevent The Carrying Of concealed Weapons In Said City, § 246. Carrying Weapons | Maryland | 1872

It shall not be lawful for any person to carry concealed, in Annapolis, whether a resident thereof or not, any pistol, dirk-knife, bowie-knife, sling-shot, billy, razor, brass, iron or other metal knuckles, or any other deadly weapon, under a penalty of a fine of not less than three, nor more than ten dollars in each case, in the discretion of the Justice of the Peace, before whom the same may be tried, to be collected. . .

John Prentiss Poe, The Maryland Code : Public Local Laws, Adopted by the General Assembly of Maryland March 14, 1888. Including also the Public Local

Acts of the Session of 1888 incorporated therein Page 1457, Image 382 (Vol. 2, 1888) available at The Making of Modern Law: Primary Sources.

Sensitive Places and Times | Maryland | 1874

Election Districts—Fences. § 99.

It shall not be lawful for any person in Kent county to carry, on the days of election, secretly or otherwise, any gun, pistol, dirk, dirk-knife, razor, billy or bludgeon; and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the peace of said county, shall be fined not less than five nor more than twenty dollars, and on refusal to pay said fine shall be committed by such justice of the peace to the jail of the county until the same shall be paid.

John Prentiss Poe, The Maryland Code. Public Local Laws, Adopted by the General Assembly of Maryland March 14, 1888. Including also the Public Local Acts of the Session of 1888 Incorporated Therein Page 522-523, Image 531-532 (Vol. 1, 1888) available at The Making of Modern Law: Primary Sources.

Sentence Enhancement for Use of Weapon | Maryland | 1884

City of Baltimore, § 742.

Whenever any person shall be arrested in the city of Baltimore, charged with any crime or misdemeanor, or for being drunk or disorderly, or for any breach of the peace, and shall be taken before any of the police justices of the peace of the said city, and any such person shall be found to have concealed about his person any pistol, dirk knife, bowie-knife, sling-shot, billy, brass, iron or any other metal knuckles, razor, or any other deadly weapon whatsoever, such person shall be subject to a fine of not less than five dollars nor more than twenty-five dollars in the discretion of the police justice of the peace before whom such person may be taken, and the confiscation of the weapon so found, which said fine shall be collected as other fines are now collected; provided, however, that the provisions of this section shall not apply to those persons who, as conservators of the peace are entitled or required to carry a pistol or other weapon as a part of their official equipment.

1886 Md. Laws 315, An Act to Prevent the Carrying of Guns, Pistols, Dirk-knives, Razors, Billies or Bludgeons by any Person in Calvert County, on the Days of Election in said County, Within One Mile of the Polls § 1:

That from and after the passage of this act, it shall not be lawful for any person in Calvert County to carry, on the days of election and primary election within three hundred yards of the polls, secretly, or otherwise, any gun, pistol, dirk, dirk-knife, razor, billy or bludgeon, and any person violating the provisions of this act, shall be deemed guilty of a misdemeanor and on conviction thereof by the Circuit Court

of Calvert County . . . shall be fined not less than ten nor more than fifty dollars for each such offense. . .

John Prentiss Poe, *The Maryland Code. Public Local Laws, Adopted by the General Assembly of Maryland March 14, 1888. Including also the Acts of the Session of 1888 Incorporated Therein, and Prefaced with the Constitution of the State* Page 468-469, Image 568-569 (Vol. 1, 1888) available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | Maryland | 1886
Concealed Weapons, § 30.

Every person, not being a conservator of the peace entitled or required to carry such weapon as a part of his official equipment, who shall wear or carry any pistol, dirk-knife, bowie- knife, slung-shot, billy, sand-club, metal knuckles, razor, or any other dangerous or deadly weapon of any kind whatsoever, (penknives excepted,) concealed upon or about his person; and every person who shall carry or wear any such weapon openly, with the intent or purpose of injuring any person, shall, upon conviction thereof, be fined not more than five hundred dollars, or be imprisoned not more than six months in jail or in the house of correction.

1886 Md. Laws 315, *An Act to Prevent the Carrying of Guns, Pistols, Dirk-knives, Razors, Billies or Bludgeons by any Person in Calvert County, on the Days of Election in said County, Within One Mile of the Polls* § 1.

That from and after the passage of this act, it shall not be lawful for any person in Calvert County to carry, on the days of election and primary election within three hundred yards of the polls, secretly, or otherwise, any gun, pistol, dirk, dirk-knife, razor, billy or bludgeon, and any person violating the provisions of this act, shall be deemed guilty of a misdemeanor and on conviction thereof by the Circuit Court of Calvert County . . . shall be fined not less than ten nor more than fifty dollars for each such offense. . .

John Prentiss Poe, The Baltimore City Code, Containing the Public Local Laws of Maryland Relating to the City of Baltimore, and the Ordinances of the Mayor and City Council, in Force on the First Day of November, 1891, with a Supplement, Containing the Public Local Laws Relating to the City of Baltimore, Passed at the Session of 1892 of the General Assembly, and also the Ordinances of the Mayor and City Council, Passed at the Session of 1891-1892, and of 1892-1893, up to the Summer Recess of 1893 Page 297-298, Image 306-307 (1893) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Maryland | 1890

Ordinances of Baltimore, § 742A.

Every person in said city of Baltimore not being a conservator of the peace, entitled or required to carry such weapons as a part of his official equipment, who shall wear or carry any pistol, dirk-knife, bowie-knife, sling-shot, billy, sand-club, metal knuckles, razor or any other dangerous or deadly weapon of any kind whatsoever, (pen knives excepted.) concealed upon or about his person; and every person who shall carry or wear such weapons openly, with the intent or purpose of injuring any person, shall, upon a conviction thereof, be fined not more than five hundred dollars, and be imprisoned not more than six months in jail or in the house of correction; that this act shall not release or discharge any person or persons already offending against the general law in such cases made and provided, but any such person or persons may be proceeded against, prosecuted and punished under the general law of this State as if this act had not been passed.

MASSACHUSETTS

1750 Mass. Acts 544, An Act For Preventing And Suppressing Of Riots, Routs And Unlawful Assemblies, chap. 17, § 1.

If any persons to the number of twelve or more, being armed with clubs or other weapons. . . shall be unlawfully, riotously, or tumultuously assembled . . . (Read riot act, if don't disperse) . . . It shall be lawful for every officer . . . to seize such persons, and carry them before a justice of the peace; and if such persons shall be

killed or hurt by reason of their resisting . . . officers and their assistants shall be indemnified and held guiltless.

1814 Mass. Acts 464, An Act In Addition To An Act, Entitled “An Act To Provide For The Proof Of Fire Arms, Manufactured Within This Commonwealth,” ch. 192, § 1, 2.

All musket barrels and pistol barrels, manufactured within this Commonwealth, shall, before the same shall be sold, and before the same shall be stocked, be proved by the person appointed according to the provisions of an act . . . ; § 2 That if any person or persons, from and after the passing of this act, shall manufacture, within this Commonwealth, any musket or pistol, or shall sell and deliver, or shall knowingly purchase any musket or pistol, without having the barrels first proved according to the provisions of the first section of this act, marked and stamped according the provisions of the first section of the act.

Theron Metcalf, *The Revised Statutes of the Commonwealth of Massachusetts, Passed November 4, 1835; to Which are Subjoined, an Act in Amendment Thereof, and an Act Expressly to Repeal the Acts Which are Consolidated Therein, Both Passed in February 1836; and to Which are Prefixed, the Constitutions of the United States and of the Commonwealth of Massachusetts* Page 750, Image 764 (1836) available at *The Making of Modern Law: Primary Sources*.

Of Proceedings to Prevent the Commission of Crimes, § 16.

If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

1850 Mass. Gen. Law, chap. 194, §§ 1, 2, as codified in Mass. Gen. Stat., chap. 164 (1873) § 10.

Whoever when arrested upon a warrant of a magistrate issued against him for an alleged offense against the laws of this state, and whoever when arrested by a sheriff, deputy sheriff, constable, police officer, or watchman, while committing a criminal offense against the laws of this state, or a breach or disturbance of the public peace, is armed with, or has on his person, slung shot, metallic knuckles, bills, or other dangerous weapon, shall be punished by fine . . .

1850 Mass. Gen. Law, chap. 194, §§ 1, 2 as codified in Mass. Gen. Stat., chap. 164 (1873) § 11.

Whoever manufactures, or causes to be manufactured, or sells, or exposes for sale, any instrument or weapon of the kind usually known as slung shot, or metallic knuckles, shall be punished by fine not less than fifty dollars, or by imprisonment in the jail not exceeding six months.

1927 Mass. Acts 416, An Act Relative to Machine Guns and Other Firearms, ch. 326, § 5 (amending §10)

Carrying Weapons | Massachusetts | 1927

Whoever, except as provided by law, carries on his person, or carries on his person or under his control in a vehicle, a pistol or revolver, loaded or unloaded, or possesses a machine gun as defined in section one hundred and twenty-one of chapter one hundred and forty... or whoever so carries any stiletto, dagger, dirk knife, slung shot, metallic knuckles or sawed off shotgun, or whoever, when arrested upon a warrant for an alleged crime or when arrested while committing a crime or a breach or disturbance of the public peace, is armed with, or has on his person, or has on his person or under his control in a vehicle, a billy or dangerous weapon other than those herein mentioned, shall be punished by imprisonment for not less than six months nor more than two and a half years in a jail . . .

MICHIGAN

1887 Mich. Pub. Acts 144, An Act to Prevent The Carrying Of Concealed Weapons, And To Provide Punishment Therefore, § 1.

It shall be unlawful for any person, except officers of the peace and night-watches legitimately employed as such, to go armed with a dirk, dagger, sword, pistol, air gun, stiletto, metallic knuckles, pocket-billy, sand bag, skull cracker, slung shot, razor or other offensive and dangerous weapon or instrument concealed upon his person.

1891 Mich. Pub. Acts 409, Police Department, pt 15: . . . And all persons who shall carry concealed on or about their persons, any pistol, revolver, bowie knife, dirk, slung shot, billie, sand bag, false knuckles, or other dangerous weapon, or who shall lay in wait , lurk or be concealed, with intent to do injury to any person or property, who shall threaten to beat or kill another or injure him in his person or property . . . shall be deemed a disorderly person, and upon conviction thereof may be punished by a fine not exceeding one hundred dollars and the costs of prosecution, and in imposition of any such fine and costs the court may make a further sentence that in default of payment, such offender be imprisoned in the city prison. . .

1913 Mich. Pub. Acts 452, An Act Defining the Crime of Felonious Assault and Prescribing Punishment Therefor, § 1.

Whoever shall assault another with a gun, revolver, pistol, knife, iron bar, club, brass knuckles or other dangerous weapon, but without intending to commit the crime of murder, and without intending to inflict great bodily harm less than the crime of murder, shall be deemed guilty of a felonious assault, and upon conviction shall be punished by imprisonment in the State Prison for a term not exceeding three years or by imprisonment in the county jail for a term not exceeding one year, in the discretion of the court.

1927 Mich. Pub. Acts 888-89, An Act to Regulate and License the Selling, Purchasing, Possessing and Carrying of Certain Firearms, § 3.

Dangerous or Unusual Weapons | Michigan | 1927

It shall be unlawful within this state to manufacture, sell, offer for sale, or possess any machine gun or firearm which can be fired more than sixteen times without reloading, or any muffler, silencer or device for deadening or muffling the sound of a discharged firearm, or any bomb or bombshell, or any blackjack, slung shot, billy, metallic knuckles, sandclub, sandbag or bludgeon. Any person convicted of a violation of this section shall be guilty of a felony and shall be punished by a fine not exceeding one thousand dollars or imprisonment in the state prison not more than five years, or by both such fine and imprisonment in the discretion of the court. . . .

1929 Mich. Pub. Acts 529, An Act to Regulate and License the Selling, Purchasing, Possessing and Carrying of Certain Firearms, § 3.

Dangerous or Unusual Weapons | Michigan | 1929

It shall be unlawful within this state to manufacture, sell, offer for sale or possess any machine gun or firearm which can be fired more than sixteen times without reloading or any muffler, silencer, or device for deadening or muffling the sound of a discharged firearm, or any bomb, or bomb shell, blackjack, slung shot, billy, metallic knuckles, sand club, sand bag, or bludgeon or any gas ejecting device, weapon, cartridge, container, or contrivance designed or equipped for or capable of ejecting any gas which will either temporarily or permanently disable, incapacitate, injure or harm any person with whom it comes in contact.

MINNESOTA

W. P. Murray, The Municipal Code of Saint Paul: Comprising the Laws of the State of Minnesota Relating to the City of Saint Paul, and the Ordinances of the

Common Council; Revised to December 1, 1884 Page 289, Image 295 (1884) available at The Making of Modern Law: Primary Sources.

Concealed Weapons – License, § 1.

It shall be unlawful for any person, within the limits of the city of St. Paul, to carry or wear under his clothes, or concealed about his person, any pistol or pistols, dirk, dagger, sword, slungshot, cross-knuckles, or knuckles of lead, brass or other metal, bowie-knife, dirk-knife or razor, or any other dangerous or deadly weapon. § 2.

Any such weapons or weapons, duly adjudged by the municipal court of said city to have been worn or carried by any person, in violation of the first section of this ordinance, shall be forfeited or confiscated to the said city of St. Paul, and shall be so adjudged. § 3. Any policeman of the city of St. Paul, may, within the limits of said city, without a warrant, arrest any person or persons, whom such policeman may find in the act of carrying or wearing under their clothes, or concealed about their person, any pistol or pistols, dirk, dagger, sword, slungshot, cross-knuckles, or knuckles of lead, brass or other metal, bowie-knife, dirk-knife or razor, or any other dangerous or deadly weapon, and detain him, her or them in the city jail, until a warrant can be procured, or complaint made for the trial of such person or persons, as provided by the charter of the city of St. Paul, for other offenses under said charter, and for the trial of such person or persons, and for the seizure and confiscation of such of the weapons above referred to, as such person or persons may be found in the act of carrying or wearing under their clothes, or concealed about their persons.

George Brooks Young. General Statutes of the State of Minnesota in Force January 1, 1889 Page 1006, Image 1010 (Vol. 2, 1888) available at The Making of Modern Law: Primary Sources.

Dangerous or Unusual Weapons | Minnesota | 1888

Making, Selling, etc., Dangerous Weapons, §§ 333-334.

§ 333. A person who manufactures, or causes to be manufactured, or sells, or keeps for sale, or offers or gives or disposes of any instrument or weapon of the kind usually known as slung-shot, sand-club, or metal knuckles, or who, in any city of this state, without the written consent of a magistrate, sells or gives any pistol or fire-arm to any person under the age of eighteen years, is guilty of a misdemeanor.

Carrying, using, etc., certain Weapons

§ 334. A person who attempts to use against another, or who, with intent so to use, carries, conceals, or possesses any instrument or weapon of the kind commonly known as a slung-shot, sand-club, or metal knuckles, or a dagger, dirk, knife, pistol or other fire-arm, or any dangerous weapon, is guilty of a misdemeanor.

MISSISSIPPI

1799 Miss. Laws 113, A Law For The Regulation Of Slaves. No Negro or mulatto shall keep or carry any gun, powder, shot, club or other weapon whatsoever, offensive or defensive; but all and every gun, weapon and ammunition found in the possession or custody of any negro or mulatto may be seized by any person . . . every such offender shall have and receive by order of such justice, any number of lashes not exceeding thirty-nine, on his or her bare back, well laid on, for every such offense.

1804 Miss. Laws 90, An Act Respecting Slaves, § 4. No Slave shall keep or carry any gun, powder, shot, club or other weapon whatsoever offensive or defensive, except tools given him to work with . . .

1837 Miss. Law 289-90, An Act To Prevent The Evil Practice Of Dueling In This State And For Other Purposes, § 5.

That if any person or persons shall be guilty of fighting in any corporate city or town, or any other town or public place, in this state, and shall in such fight use any rifle, shot gun, sword, sword cane, pistol, dirk, bowie knife, dirk knife, or any other deadly weapon; or if any person shall be second or aid in such fight, the persons so offending shall be fined not less than three hundred dollars, and shall be imprisoned not less than three months; and if any person shall be killed in such fight, the person so killing the other may also be prosecuted and convicted as in other cases of murder.

Laws of the State of Mississippi ; embracing all Acts of a Public Nature from January Session, 1824, to January Session 1838, Inclusive Page 736, Image 738 (Jackson, 1838) available at The Making of Modern Law: Primary Sources, 1838. An Act to Prevent the Evil Practice of Dueling in this State, and for other Purposes, § 5. Be it further enacted, That if any person or persons shall be guilty of fighting in any corporate city or town, or any other town, or public place, in this state, and shall in such fight use any rifle, shot gun, sword, sword cane, pistol, dirk, bowie knife, dirk knife, or any other deadly weapon; or if any persons shall be second or aid in such fight, the persons so offending shall be fined not less than three hundred dollars, and shall be imprisoned not less than three months; and if any person shall be killed in such fight, the person so killing the other may also be prosecuted and convicted as in other cases of murder.

Volney Erskine Howard, The Statutes of the State of Mississippi of a Public and General Nature, with the Constitutions of the United States and of this State: And

an Appendix Containing Acts of Congress Affecting Land Titles, Naturalization, &c, and a Manual for Clerks, Sheriffs and Justices of the Peace Page 676, Image 688 (1840) available at The Making of Modern Law: Primary Sources. 1840 Crimes, Misdemeanors and Criminal Prosecution, § 55. If any person having or carrying any dirk, dirk knife, Bowie knife, sword, sword cane, or other deadly weapon, shall, in the presence of three or more persons, exhibit the same in a rude, angry and threatening manner, not in necessary self-defense, or shall in any manner unlawfully use the same in any fight or quarrel, the person or persons so offending, upon conviction thereof in the circuit or criminal court of the proper county, shall be fined in a sum not exceeding five hundred dollars, and be imprisoned not exceeding three months.

1878 Miss. Laws 175, An Act To Prevent The Carrying Of Concealed Weapons And For Other Purposes, § 1.

That any person not being threatened with or havin good and sufficient reason to apprehend an attack, or traveling (not being a tramp) or setting out on a long journey, or peace officers, or deputies in discharge of their duties, who carries concealed in whole or in part, any bowie knife, pistol, brass knuckles, slung shot or other deadly weapon of like kind or description shall be deemed guilty of a misdemeanor, and on conviction, shall be punished for the first offense by a fine of not less than five dollars nor more than one hundred dollars . . .

MISSOURI

Organic Laws:-Laws of Missouri Territory, (Alphabetically Arranged):-Spanish Regulations for the Allotment of Lands:- Laws of the United States, for Adjusting Titles to Lands, &c. to Which are Added, a Variety of Forms, Useful to Magistrates Page 374, Image 386 (1818) available at The Making of Modern Law: Primary Sources. 1818.

Slaves, § 3. No slave or mulatto whatsoever, shall keep or carry a gun, powder, shot, club or other weapon whatsoever, offensive or defensive; but all and every gun weapon and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person and upon due proof made before any justice of the peace of the district [county] where such seizure shall be, shall by his order be forfeited to the seizer, for his own use, and moreover, every such offender shall have and receive by order of such justice any number of lashes not exceeding thirty nine on his or her bare back well laid on for every such offence. § 4. Every free negro or mulatto, being a housekeeper may be permitted to keep one gun, powder and shot; and all negroes or mulattoes bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder shot and weapons,

offensive and defensive, by license from a justice of the peace of the district [county] wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes or of the owners of such as are slaves.

Everett Wilson Pattison, *The Revised Ordinance of the City of St. Louis, Together with the Constitution of the United States, and of the State of Missouri; the Charter of the City; and a Digest of the Acts of the General Assembly, Relating to the City* Page 491-492, Image 499-500 (1871) available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | Missouri | 1871

Ordinances of the City of St. Louis, Misdemeanors, §§ 9-10.

§ 9. Hereafter it shall not be lawful for any person to wear under his clothes, or concealed about his person, any pistol, or revolver, colt, billy, slung shot, cross knuckles, or knuckles of lead, brass or other metal, bowie knife, razor, dirk knife, dirk, dagger, or any knife resembling a bowie knife, or any other dangerous or deadly weapon, within the City of St. Louis, without written permission from the Mayor; and any person who shall violate this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined not less than ten nor more than five hundred dollars for each and every offence.

§ 10. Nothing in the preceding section shall be so construed as to prevent any United States, State, county or city officer, or any member of the city government, from carrying or wearing such weapons as may be necessary in the proper discharge of his duties.

1883 Mo. Laws 76, An Act To Amend Section 1274, Article 2, Chapter 24 Of The Revised Statutes Of Missouri, Entitled "Of Crimes And Criminal Procedure" § 1274.

If any person shall carry concealed, upon or about his person, any deadly or dangerous weapon, or shall go into any church or place where people have assembled for religious worship, or into any school room or place where people are assembled for educational, literary or social purposes, or to any election precinct on any election day, or into any court room during the sitting of court, or into any other public assemblage of persons met for any lawful purpose other than for militia drill or meetings called under the militia law having upon or about his person any kind of fire arms, bowie knife, dirk, dagger, slung-shot, or other deadly weapon, or shall in the presence of one or more persons shall exhibit and such weapon in a rude, angry or threatening manner, or shall have or carry any such weapon upon or about his person when intoxicated or under the influence of intoxicating drinks, or shall directly or indirectly sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such

minor, he shall, upon conviction be punished by a fine of not less than twenty-five nor more than two hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

William K. Amick, *The General Ordinances of the City of Saint Joseph (A City of the Second Class) Embracing all Ordinances of General Interest in Force July 15, 1897, together with the Laws of the State of Missouri of a General Nature Applicable to the City of St. Joseph. Compiled and Arranged Page 508, Image 515 (1897)* available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | Missouri | 1897

Concealed Weapons – Carrying of, § 7.

Any person who shall in this city wear under his clothes or carry concealed upon or about his person, or be found having upon or about his person concealed, any pistol or revolver, colt, billy, slung shot, cross knuckles or knuckles of lead, brass or other metal, dirk, dagger, razor, bowie knife, or any knife resembling a bowie knife, or any other dangerous or deadly weapon, shall be deemed guilty of a misdemeanor.

Joplin Code of 1917, Art. 67, § 1201. Missouri. Weapons; Deadly.

If any person shall carry concealed upon or about his person a dangerous or deadly weapon of any kind or description, or shall go into any church or place where people have assembled for religious worship, or into any school room or place where people are assembled for educational, political, literary or social purposes, or to any election precinct on any election day, or into any court room during the sitting of court, or into any other public assemblage of persons met for any lawful purpose other than for militia drill, or meetings called under militia law of this state, having upon or about his person, concealed or exposed, any kind of firearms, bowie knife, spring-back knife, razor, knuckles, bill, sword cane, dirk, dagger, slung shot, or other similar deadly weapons, or shall, in the presence of one or more persons, exhibit any such weapon in a rude, angry or threatening manner, or shall have any such weapons in his possession when intoxicated, or directly or indirectly shall sell or deliver, loan or barter, to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall be deemed guilty of a misdemeanor. Provided, that nothing contained in this section shall apply to legally qualified sheriffs, police officers, and other persons whose bona fide duty is to execute process, civil or criminal, make arrests, or aid in conserving the public peace, nor to persons traveling in a continuous journey peaceably through this state.

1923 Mo. Laws 241-42, An Act to Provide the Exercise of the Police Powers of the State by and through Prohibiting the Manufacture, Possession, Transportation, Sale and Disposition of Intoxicating Liquors. . .§ 17.

Sensitive Places and Times | Missouri | 1923

Any person, while in charge of, or a passenger thereon, who shall carry on his person, or in, on, or about, any wagon, buggy, automobile, boat, aeroplane, or other conveyance or vehicle whatsoever, in, or upon which any intoxicating liquor, including wine or beer, is carried, conveyed or transported in violation of any provision of the laws of this state, any revolver, gun or other firearm, or explosive, any bowie knife, or other knife having a blade of more than two and one-half inches in length, any sling shot, brass knucks [sic], billy, club or other dangerous weapon, article or thing which could, or might, be used in inflicting bodily injury or death upon another, shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by the imprisonment in the state penitentiary for a term of not less than two years. Provided, that this section shall not apply to any person or persons transporting intoxicating liquor for personal use and not for sale in violation of law. Provided, that this section shall not apply to any person or passenger who did not know that such vehicle or conveyance was being used for unlawful purposes.

MONTANA

1864 Mont. Laws 355, An Act to Prevent the Carrying of Concealed Deadly Weapons in the Cities and Towns of This Territory, § 1.

If any person shall within any city, town, or village in this territory, whether the same is incorporated or not, carry concealed upon his or her person any pistol, bowie-knife, dagger, or other deadly weapon, shall, on conviction thereof before any justice of the peace of the proper county, be fined in any sum not less than twenty five dollars, nor more than one hundred dollars.

1879 Mont. Laws 359, Offences against the Lives and Persons of Individuals, ch. 4, § 23.

If any person shall, by previous appointment or agreement, fight a duel with a rifle, shot-gun, pistol, bowie-knife, dirk, small-sword, back-sword, or other dangerous weapon, and in so doing shall kill his antagonist, or any person or persons, or shall inflict such wound as that the party or parties injured shall die thereof within one year thereafter, every such offender shall be deemed guilty of murder in the first degree, and, upon conviction thereof, shall be punished accordingly [death by hanging].

1885 Mont. Laws 74, Deadly Weapons, An Act to Amend § 62 of Chapter IV of the Fourth Division of the Revised Statutes, § 62-63.

Every person in this territory having, carrying, or procuring from another person, any dirk, dirk-knife, sword, sword-cane, pistol, gun, or other deadly weapon, who shall in the presence of one or more persons, draw or exhibit any of said deadly weapons in a rude or angry or threatening manner, not in necessary self defense, or who shall in any manner unlawfully use the same in any fight or quarrel, the person or persons so offending, upon conviction thereof in any criminal court in any county in this territory shall be fined in any sum not less than ten dollars nor more than one hundred dollars, or imprisoned in the county jail not less than one month nor more than three months, at the discretion of the court, or by both such fine and imprisonment, together with the costs of prosecution, which said costs shall in all cases be computed and collected in the same manner as costs in civil cases; and all fines and forfeitures arising under the provisions of this act shall be paid into the county treasury for school purposes: Provided, that no sheriff, deputy sheriff, constable, marshal, or other peace officer, shall be held to answer, under the provisions of this act, for drawing or exhibiting any of the weapons hereinbefore mentioned while in the lawful discharge of his or their duties.

1887 Mont. Laws 549, Criminal Laws, § 174.

If any person shall have upon him or her any pistol, gun, knife, dirk-knife, bludgeon, or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined not more than one hundred dollars, or imprisoned in the county jail not more than three months.

NEBRASKA

1858 Neb. Laws 69, An Act To Adopt And Establish A Criminal code For The Territory Of Nebraska, § 135.

And if any person shall have upon him any pistol, gun, knife, dirk, bludgeon or other offensive weapon with intent to assault any person, every such person, on conviction, shall be fined in a sum not exceeding one hundred dollars. . .

Gilbert B. Colfield, Laws, Ordinances and Rules of Nebraska City, Otoe County, Nebraska Page 36, Image 36 (1872) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Nebraska | 1872

Ordinance No. 7, An Ordinance Prohibiting the Carrying of Fire Arms and Concealed Weapons, § 1.

Be it ordained by the Mayor and Councilmen of the City of Nebraska City, That it shall be, and it is hereby declared to be unlawful for any person to carry, openly or concealed, any musket, rifle, shot gun, pistol, sabre, sword, bowie knife, dirk, sword cane, billy slung shot, brass or other metallic knuckles, or any other dangerous or deadly weapons, within the corporate limits of Nebraska City, Neb; Provided, that nothing herein contained shall prevent the carrying of such weapon by a civil or military officer, or by a soldier in the discharge of his duty, nor by any other person for mere purposes of transportation from one place to another.

W. J. Connell, The Revised Ordinances of the City of Omaha, Nebraska, Embracing All Ordinances of a General Nature in Force April 1, 1890, Together with the Charter for Metropolitan Cities, the Constitution of the United States and the Constitution of the State of Nebraska Page 344, Image 356 (1890) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Nebraska | 1890

Ordinances of Omaha, Concealed Weapons, § 10.

It shall be unlawful for any person to wear under his clothes, or concealed about his person, any pistol or revolver, colt, billy, slung-shot, brass knuckles or knuckles of lead, dirk, dagger, or any knife resembling a bowie knife, or any other dangerous or deadly weapon within the corporate limits of the city of Omaha. Any person guilty of a violation of this section shall, on conviction, be fined not exceeding one hundred (\$100) dollars for each and every offense; nothing in this section, however, shall be so construed as to prevent the United States Marshals and their deputies, sheriffs and their deputies, regular or special police officers of the city, from carrying or wearing such weapons as may be deemed necessary in the proper discharge of their duties. Provided, however, If it shall be proved from the testimony on the trial of any such case, that the accused was, at the time of carrying any weapon as aforesaid, engaged in the pursuit of lawful business, calling or employment and the circumstances in which he was placed at the time aforesaid were such as to justify a prudent man in carrying the weapon or weapons aforesaid, for the defense of his person, property or family, the accused shall be acquitted.

Compiled Ordinances of the City of Fairfield, Clay County, Nebraska Page 34, Image 34 (1899) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Nebraska | 1899

Ordinance No. 20, An Ordinance to Prohibit the Carrying of Concealed Weapons and Fixing a Penalty for the violations of the same. Be it ordained by the Mayor and Council of the City of Fairfield, Nebraska: § 1.

It shall be unlawful for any person to carry upon his person any concealed pistol, revolver, dirk, bowie knife, billy, sling shot, metal knuckles, or other dangerous or deadly weapons of any kind, excepting only officers of the law in the discharge or their duties; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to the penalty hereinafter provided. § 2. Any such weapon or weapons, duly adjudged by the Police Judge of said city to have been worn or carried by any person in violation of the first section of this ordinance, shall be forfeited or confiscated to the City of Fairfield and shall be so adjudged.

NEVADA

Bonnifield, The Compiled Laws of the State of Nevada. Embracing Statutes of 1861 to 1873, Inclusive Page 563, Image 705 (Vol. 1, 1873) available at The Making of Modern Law: Primary Sources.

Of Crimes and Punishments, §§ 35-36.

§ 35. If any person shall by previous appointment or agreement, fight a duel with a rifle, shotgun, pistol, bowie knife, dirk, smallsword, backsword, or other dangerous weapon, and in doing shall kill his antagonist, or any person or persons, or shall inflict such wound as that the party or parties injured shall die thereof within one year thereafter, every such offender shall be deemed guilty of murder in the first degree and upon conviction thereof shall be punished accordingly.

§ 36. Any person who shall engage in a duel with any deadly weapon although no homicide ensue or shall challenge another to fight such duel, or shall send or deliver any verbal or written message reporting or intending to be such challenge, although no duel ensue, shall be punished by imprisonment in the State prison not less than two nor more than ten years, and shall be incapable of voting or holding any office of trust or profit under the laws of this State.

David E. Baily, The General Statutes of the State of Nevada. In Force. From 1861 to 1885, Inclusive. With Citations of the Decisions of the Supreme Court Relating Thereto Page 1077, Image 1085 (1885) available at The Making of Modern Law: Primary Sources.

Possession by, Use of, and Sales to Minors and Others Deemed Irresponsible | Nevada | 1881

An Act to prohibit the carrying of concealed weapons by minors. § 1.

Every person under the age of twenty-one (21) years who shall wear or carry any dirk, pistol, sword in case, slung shot, or other dangerous or deadly weapon concealed upon his person, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than twenty nor more than two hundred

(\$200) dollars, or by imprisonment in the county jail not less than thirty days nor more than six months or by both such fine and imprisonment.

NEW JERSEY

The Grants, Concessions, And Original Constitutions Of The Province Of New Jersey Page 289-290 (1881) (1686)

An Act Against Wearing Swords, Etc. Whereas there hath been great complaint by the inhabitants of this Province, that several persons wearing swords, daggers, pistols, dirks, stilettoes, skeines, or any other unusual or unlawful weapons, by reason of which several persons in this Province, receive great abuses, and put in great fear and quarrels, and challenges made, to the great abuse of the inhabitants of this Province. . . And be it further enacted by the authority aforesaid, that no person or persons after publication hereof, shall presume privately to wear any pocket pistol, skeines, stilettoes, daggers or dirks, or other unusual or unlawful weapons within this Province, upon penalty for the first offence five pounds, and to be committed by any justice of the peace, his warrant before whom proof thereof shall be made, who is hereby authorized to enquire of and proceed in the same, and keep in custody till he hath paid the said five pounds, one half to the public treasury for the use of this Province, and the other half to the informer: And if such person shall again offend against this law, he shall be in like manner committed upon proof thereof before any justice of the peace to the common jail, there to remain till the next sessions, and upon conviction thereof by verdict of twelve men, shall receive judgment to be in prison six month, and pay ten pounds for the use aforesaid. And be it further enacted by the authority aforesaid, that no planter shall ride or go armed with sword, pistol or dagger, upon the penalty of five pounds, to be levied as aforesaid, excepting all officers, civil and military, and soldiers while in actual service, as also all strangers, travelling upon their lawful occasions through this Province, behaving themselves peaceably.

Charles Nettleton, Laws of the State of New-Jersey Page 474, Image 501 (1821) available at The Making of Modern Law: Primary Sources.

Sentence Enhancement for Use of Weapon | New Jersey | 1799

[An Act to Describe, Apprehend and Punish Disorderly Persons (1799)], § 2.

And whereas diverse ill disposed persons are frequently apprehended, having upon them implements for house-breaking, or offensive weapons, or are found in or upon houses, warehouses, stables, barns or out-houses, areas of houses, coach-houses, smoke-houses, enclosed yards, or gardens belonging to houses, with intent to commit theft, misdemeanors or other offences; and although their evil purposes are thereby manifested, the power of the justices of the peace to demand of them

sureties for their good behavior hath not been of sufficient effect to prevent them from carrying their evil purpose into execution; Be it further enacted, That if any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit or other implement, with an intent to break and enter into any dwelling-house or out-house; or shall have upon him or her any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent to assault any person; or shall be found in or upon any dwelling-house, ware-house, stable, barn, coach-house, smoke-house or out-house, or in any enclosed yard or garden, or area belonging to any house, with an intent to steal any goods or chattels, then he or she shall be deemed and adjudged to be a disorderly person.

Charles Nettleton, *Laws of the State of New-Jersey* Page 474, Image 501 (1821) available at *The Making of Modern Law: Primary Sources*, 1799.

[An Act to Describe, Apprehend and Punish Disorderly Persons (1799)], § 2. And whereas diverse ill disposed persons are frequently apprehended, having upon them implements for house-breaking, or offensive weapons, or are found in or upon houses, warehouses, stables, barns or out-houses, areas of houses, coach-houses, smoke-houses, enclosed yards, or gardens belonging to houses, with intent to commit theft, misdemeanors or other offences; and although their evil purposes are thereby manifested, the power of the justices of the peace to demand of them sureties for their good behavior hath not been of sufficient effect to prevent them from carrying their evil purpose into execution; Be it further enacted, That if any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit or other implement, with an intent to break and enter into any dwelling-house or out-house; or shall have upon him or her any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent to assault any person; or shall be found in or upon any dwelling-house, ware-house, stable, barn, coach-house, smoke-house or out-house, or in any enclosed yard or garden, or area belonging to any house, with an intent to steal any goods or chattels, then he or she shall be deemed and adjudged to be a disorderly person.

Ordinances of Jersey City, Passed By The Board Of Aldermen since May 1, 1871, under the Act Entitled “An Act to Re-organize the Local Government of Jersey City,” Passed March 31, 1871, and the Supplements Thereto Page 41, Image 41 (1874) available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | New Jersey | 1871

An Ordinance To Prevent the Carrying of Loaded or Concealed Weapons within the Limits of Jersey City. The Mayor and Aldermen of Jersey City do ordain as follows: § 1.

That it shall not be lawful for any person or persons (excepting policemen and private watchmen when on duty), within the corporate limits of Jersey City, to carry, have, or keep concealed on his or her person any instrument or weapon commonly known as a slung-shot, billy, sand-club or metal knuckles, and any dirk or dagger (not contained as a blade of a pocket-knife), and loaded pistol or other dangerous weapon, under the penalty of not exceeding twenty dollars for each offense. § 2. That it shall not be lawful for any person or persons (excepting policemen and private watchmen when on duty), within the corporate limits of Jersey City, to carry or wear any sword in a cane, or air-gun, under the penalty of not exceeding twenty dollars for each offense. § 3. Any forfeiture on penalty arising under this ordinance may be recovered in the manner specified by the City Charter, and all persons violating any of the provisions aforesaid shall, upon conviction, stand committed until the same be paid.

Ordinances of Jersey City, Passed By The Board Of Aldermen since May 1, 1871, under the Act Entitled “An Act to Re-organize the Local Government of Jersey City,” Passed March 31, 1871, and the Supplements Thereto Page 86- 87, Image 86-87 (1874) available at The Making of Modern Law: Primary Sources.

Ordinances of Jersey City, Passed By The Board Of Aldermen since May 1, 1871, under the Act Entitled “An Act to Re-organize the Local Government of Jersey City,” Passed March 31, 1871, and the Supplements Thereto Page 41, Image 41 (1874) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | New Jersey | 1871

An Ordinance To Prevent the Carrying of Loaded or Concealed Weapons within the Limits of Jersey City. The Mayor and Aldermen of Jersey City do ordain as follows: § 1.

That it shall not be lawful for any person or persons (excepting policemen and private watchmen when on duty), within the corporate limits of Jersey City, to carry, have, or keep concealed on his or her person any instrument or weapon commonly known as a slung-shot, billy, sand-club or metal knuckles, and any dirk or dagger (not contained as a blade of a pocket-knife), and loaded pistol or other dangerous weapon, under the penalty of not exceeding twenty dollars for each offense. § 2. That it shall not be lawful for any person or persons (excepting policemen and private watchmen when on duty), within the corporate limits of Jersey City, to carry or wear any sword in a cane, or air-gun, under the penalty of not exceeding twenty dollars for each offense. § 3. Any forfeiture on penalty arising under this ordinance may be recovered in the manner specified by the City Charter, and all persons violating any of the provisions aforesaid shall, upon conviction, stand committed until the same be paid.

Carrying Weapons, Registration and Taxation | New Jersey | 1873

An Ordinance In Relation to the Carrying of Dangerous Weapons. The Mayor and Aldermen of Jersey City do ordain as follows: § 1. That with the exceptions made in the second section of this ordinance, no person shall, within the limits of Jersey City, carry, have or keep on his or her person concealed, any slung-shot, sand-club, metal knuckles, dirk or dagger not contained as a blade of a pocket knife, loaded pistol or other dangerous weapon. § 2. That policemen of Jersey City, when engaged in the performance of police duty, the sheriff and constables of the County of Hudson, and persons having permits, as hereinafter provided for, shall be and are excepted from the prohibitions of the first section of this ordinance. § 3. The Municipal Court of Jersey City may grant permits to carry any of the weapons named in the first section to such persons as should, from the nature of their profession, business or occupation, or from peculiar circumstances, be allowed so to do; and may, in granting such permits, impose such conditions and restrictions in each case as to the court shall seem proper. All applications for permits shall be made in open court, by the applicant in person, and in all cases the court shall require a written endorsement of the propriety of granting a permit from at least three reputable freeholders; nor shall any such permit be granted to any person until the court is satisfied that such person is temperate, of adult age, and capable of exercising self-control . Permits shall not be granted for a period longer than one year, and shall be sealed by the seal of the court. The possession of a permit shall not operate as an excuse unless the terms of the same are strictly complied with. In cases of emergency, permits may be granted by a single Justice of the Municipal Court, or by the Chief of Police, to be in force not longer than thirty days, but such permit shall not be renewable. §4. That no person shall, within the limits of Jersey City, carry any air gun or any sword cane. § 5. The penalty for a violation of this ordinance shall be a fine not exceeding fifty dollars, or imprisonment in the city prison not exceeding ten days, or both fine and imprisonment not exceeding the aforesaid amount and time, in the discretion of the court.

Mercer Beasley, Revision of the Statutes of New Jersey: Published under the Authority of the Legislature; by Virtue of an Act Approved April 4, 1871 Page 304, Image 350 (1877) available at The Making of Modern Law: Primary Sources. Sentence Enhancement for Use of Weapon | New Jersey | 1877
An Act Concerning Disorderly Persons, § 2.

And whereas, diverse ill-disposed persons are frequently apprehended, having upon them implements for house-breaking, or offensive weapons, or are found in or upon houses, warehouses, stables, barns or out-houses, areas of houses, coach-houses, smoke-houses, enclosed yards, or gardens belonging to houses (as well as places of public resort or assemblage), with intent to commit theft, misdemeanors or other offences; and although their evil purposes are thereby manifested, the power of the justices of the peace to demand of them sureties for their good behavior hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; if any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit or other implement with an intent to break and enter into any building: or shall have upon him or her any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent to assault any person; or shall be found in or near any dwelling house, warehouse, stable, barn, coach-house, smoke-house, or out-house, or in any enclosed yard or garden, or area belonging to any house, or in any place of public resort or assemblage for business, worship, amusement, or other lawful purposes with intent to steal any goods or chattels, then he or she shall be deemed and adjudged a disorderly person.

1905 N.J. Laws 324-25, A Supplement to an Act Entitled “An Act for the Punishment of Crimes,” ch. 172, § 1.

Any person who shall carry any revolver, pistol or other deadly, offensive or dangerous weapon or firearm or any stiletto, dagger or razor or any knife with a blade of five inches in length or over concealed in or about his clothes or person, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not exceeding two hundred dollars or imprisonment at hard labor, not exceeding two years, or both; . . .

1927 N.J. Laws 742, A Further Supplement to an Act Entitled, “An Act for the Punishment of Crimes,” ch. 321, § 1.

Manufacturing, Inspection and Sale of Gunpowder and Firearms | New Jersey | 1927

No pawnbroker shall hereafter sell or have in his possession for sale or to loan or give away, any machine gun, automatic rifle, revolver, pistol, or other firearm, or other instrument of any kind known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, metal knuckles, dagger, dirk, dangerous knife, stiletto, bomb or

other high explosive. Any pawnbroker violating the provisions of this act shall be guilty of a high misdemeanor and punished accordingly.

NEW MEXICO

1852 N.M. Laws 67, An Act Prohibiting the Carrying a Certain Class of Arms, within the Settlements and in Balls, § 1.

That each and every person is prohibited from carrying short arms such as pistols, daggers, knives, and other deadly weapons, about their persons concealed, within the settlements, and any person who violates the provisions of this act shall be fined in a sum not exceeding ten dollars, nor less than two dollars, or shall be imprisoned for a term not exceeding fifteen days nor less than five days.

1853 N.M. Laws 406, An Act Prohibiting The Carrying Of Weapons Concealed Or Otherwise, § 25.

That from and after the passage of this act, it shall be unlawful for any person to carry concealed weapons on their persons, or any class of pistols whatever, bowie knife, cuchillo de cinto (belt buckle knife), Arkansas toothpick, Spanish dagger, slung shot, or any other deadly weapon, of whatever class or description that may be, no matter by what name they may be known or called under the penalties and punishment which shall hereinafter be described.

1859 N.M. Laws 94, § 1-2.

§ 1. That from and after the passage of this act, it shall be unlawful for any person to carry concealed weapons on their persons, of any class of pistols whatever, bowie knife (cuchillo de cinto), Arkansas toothpick, Spanish dagger, slung-shot, or any other deadly weapon, of whatever class or description they may be, no matter by what name they may be known or called, under the penalties and punishment which shall hereinafter be described. § 2. Be it further enacted: That if any person shall carry about his person, either concealed or otherwise, any deadly weapon of the class and description mentioned in the preceeding section, the person or persons who shall so offend, on conviction, which shall be by indictment in the district court, shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars, at the discretion of the court trying the cause, on the first conviction under this act; and for the second conviction, the party convicted shall be imprisoned in the county jail for a term of not less than three months, nor more than one year, also at the discretion of the court trying the cause.

1864-1865 N.M. Laws 406-08, An Act Prohibiting the Carrying of Weapons Concealed or Otherwise, ch. 61, § 25, 1864.

That from and after the passage of this act, it shall be unlawful for any person to carry concealed weapons on their persons, or any class of pistols whatever, bowie knife (cuchillo de cinto), Arkansas toothpick, Spanish dagger, slungshot, or any other deadly weapon, of whatever class or description that may be, no matter by what name they may be known or called, under the penalties and punishment which shall hereinafter be described.

An Act to Prohibit the Unlawful Carrying and Use of Deadly Weapons, Feb. 18, 1887, reprinted in Acts of the Legislative Assembly of the Territory of New Mexico, Twenty-Seventh Session 55, 58 (1887).

Brandishing, Carrying Weapons, Dangerous or Unusual Weapons, Firing Weapons, Transportation | New Mexico | 1887

§ 8. Deadly weapons, within the meaning of this act, shall be construed to mean all kinds and classes of pistols, whether the same be a revolved, repeater, derringer, or any kind or class of pistol or gun; any and all kinds of daggers, bowie knives, poniards, butcher knives, dirk knives, and all such weapons with which dangerous cuts can be given, or with which dangerous thrusts can be inflicted, including sword canes, and any kind of sharp pointed canes; as also slung shots, bludgeons or any other deadly weapons with which dangerous wounds can be inflicted. . . .

NEW YORK

The Colonial Laws Of New York From The Year 1664 To The Revolution, Including The Charters To The Duke Of York, The Commissions And Instructions To Colonial Governors, The Dukes Laws, The Laws Of The Dongan And Leisler Assemblies, The Charters Of Albany And New York And The Acts Of The Colonial Legislatures From 1691 To 1775 Inclusive Page 687, Image 689 (1894) available at The Making of Modern Law: Primary Sources.

Race and Slavery Based | New York | 1664

Laws of the Colony of New York. And be it further enacted by the authority aforesaid that it shall not be lawful for any slave or slave to have or use any gun, pistol, sword, club or any other kind of weapon whatsoever, but in the presence or by the direction of his her or their Master or Mistress, and in their own ground on Penalty of being whipped for the same at the discretion of the Justice of the Peace before whom such complaint shall come or upon the view of the said justice not exceeding twenty lashes on the bare back for every such offense.

Montgomery Hunt Throop, *The Revised Statutes of the State of New York; As Altered by Subsequent Legislation; Together with the Other Statutory Provisions of a General and Permanent Nature Now in Force, Passed from the Year 1778 to the Close of the Session of the Legislature of 1881, Arranged in Connection with the Same or kindred Subjects in the Revised Statutes; To Which are Added References to Judicial Decisions upon the Provisions Contained in the Text, Explanatory Notes, and a Full and Complete Index* Page 2512, Image 677 (Vol. 3, 1882) available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | New York | 1866

An Act to Prevent the Furtive Possession and use of slung-shot and other dangerous weapons. Ch. 716, § 1.

Every person who shall within this state use, or attempt to use or with intent to use against any other person shall knowingly and secretly conceal on his person, or with like intent shall willfully and furtively possess any possess any instrument or weapon of the kind commonly known as slung-shot, billy, sand club or metal knuckles, and any dirk or dagger (not contained as a blade of a pocket knife), or sword-cane or air-gun shall be deemed guilty of felony, and on conviction thereof be punished by imprisonment in the state prison, or penitentiary or county jail, for a term not more than one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. § 2. The having possession of any of the weapons mentioned in the first section of this act by any other than a public officer, willfully and secretly concealed on the person or knowingly and furtively carried thereon, shall be presumptive evidence of so concealing and possessing or carrying the same with the intent to use the same in violation of the provisions of this act.

George S. Diossy, *The Statute Law of the State of New York: Comprising the Revised Statutes and All Other Laws of General Interest, in Force January 1, 1881, Arranged Alphabetically According to Subjects* Page 321, Image 324 (Vol. 1, 1881) available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | New York | 1881

Offenses Against Public Decency; Malicious Mischief, and Other Crimes not Before Enumerated, Concealed Weapons, § 9.

Every person who shall within this state use, or attempt to use, or with intent to use against any other person, shall knowingly and secretly conceal on his person, or with like intent shall willfully and furtively possess any instrument or weapon of the kind commonly known as a slung-shot, billy, sand club or metal knuckles, and any dirk shall be deemed guilty of felony, and on conviction thereof may be punished by imprisonment in the state prison, or penitentiary or county jail, for a

term not more than one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

George R. Donnan, Annotated Code of Criminal Procedure and Penal Code of the State of New York as Amended 1882-5 Page 172, Image 699 (1885) available at The Making of Modern Law: Primary Sources.

Carrying, Using, Etc., Certain Weapons, § 410.

A person who attempts to use against another, or who, with intent so to use, carries, conceals or possesses any instrument or weapon of the kind commonly known as the slung-shot, billy, sand –club or metal knuckles, or a dagger, dirk or dangerous knife, is guilty of a felony. Any person under the age of eighteen years who shall have, carry or have in his possession in any public street, highway or place in any city of this state, without a written license from a police magistrate of such city, any pistol or other fire-arm of any kind, shall be guilty of a misdemeanor. This section shall not apply to the regular and ordinary transportation of fire-arms as merchandise, or for use without the city limits. § 411. Possession, Presumptive Evidence. The possession, by any person other than a public officer, of any of the weapons specified in the last section, concealed or furtively carried on the person, is presumptive evidence of carrying, or concealing, or possessing, with intent to use the same in violation of that section.

Charter and Ordinances of the City of Syracuse: Together with the Rules of the Common Council, the Rules and Regulations of the Police and Fire Departments, and the Civil Service Regulations Page 215, Image 216 (1885) available at The Making of Modern Law: Primary Sources.

[Offenses Against the Public Peace and Quiet,] § 7.

Any person who shall carry about his or her person any dirk, bowie knife, sword or spear cane, pistol, revolver, slung shot, jimmy, brass knuckles, or other deadly or unlawful weapon, or shall use any deadly or unlawful weapon, with intent to do bodily harm to any person, shall be subject to a fine of not less than twenty-five nor more than one hundred dollars, or to imprisonment in the penitentiary of the county for not less than thirty days nor longer than three months, or to both such fine and imprisonment.

1900 N.Y. Laws 459, An Act to Amend Section Four Hundred and Nine of the Penal Code, Relative to Dangerous Weapons, ch. 222, § 1.

Possession by, Use of, and Sales to Minors and Others Deemed Irresponsible | New York | 1900

Making, et cetera, dangerous weapons. – A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any

instrument or weapon of the kind usually known as slunghsot, billy, sand-club or metal knuckles, or who, in any city or incorporated village in this state, without the written consent of the police magistrate, sells or gives any pistol or other firearm, to any person under the age of eighteen years or without a like consent sells or gives away any air-gun, or spring-gun, or other instrument or weapon in which the propelling force is a spring or air to any person under ht age of twelve years, or who sells or gives away any instrument or weapon commonly known as a toy pistol, in or upon which any loaded or blank cartridges are used or may be used, to any person under the age of sixteen years, is guilty of a misdemeanor.

1911 N.Y. Laws 442, An Act to Amend the Penal Law, in Relation to the Sale and Carrying of Dangerous Weapons. ch. 195, § 1.

Possession by, Use of, and Sales to Minors and Others Deemed Irresponsible | New York | 1911

Section[] eighteen hundred and ninety-six . . . [is] hereby amended . . . § 1896.

Making and disposing of dangerous weapons. A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, or metal knuckles, to any person; or a person who offers, sells, loans, leases or gives any gun, revolver, pistol or other firearm or any airgun, spring-gun or other instrument or weapon in which the propelling force is a spring or air or any instrument or weapon commonly known as a toy pistol or in or upon which any loaded or blank cartridges are used, or may be used, or any loaded or blank cartridges or ammunition therefor, to any person under the age of sixteen years, is guilty of a misdemeanor.

1911 N.Y. Laws 442-43, An Act to Amend the Penal Law, in Relation to the Sale and Carrying of Dangerous Weapons. ch. 195, § 1.

Section . . . eighteen hundred and ninety-seven . . . [is] hereby amended to read as follows: § 1897. Carrying and use of dangerous weapons. A person who attempts to use against another, or who carries, or possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles or bludgeon, or who with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon, is guilty of a felony. Any person under the age of sixteen years, who shall have, carry, or have in his possession, any of the articles named or described in the last section, which is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor. . . . Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village, or town of this state, any pistol, revolver, or other firearm without a written license therefor, theretofore issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or town, shall be guilty of a felony.

1913 N.Y. Laws 1627-30, vol. III, ch. 608, § 1, Carrying and Use of Dangerous Weapons

Carrying Weapons, Dangerous or Unusual Weapons | New York | 1913

§ 1. A person who attempts to use against another, or who carries or possesses, any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, bludgeon, bomb or bombshell, or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instruments or weapon, is guilty of a felony.

1931 N.Y. Laws 1033, An Act to Amend the Penal Law in Relation to Carrying and Use of Glass Pistols, ch. 435, § 1.

Dangerous or Unusual Weapons | New York | 1931

A person who attempts to use against another an imitation pistol, or who carries or possesses any instrument or weapon of the kind commonly known as a black-jack, slungshot, billy, sand club, sandbag, metal knuckles, bludgeon, or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, imitation pistol, machine gun, sawed off shot-gun, or any other dangerous or deadly instrument, or weapon is guilty of a misdemeanor, and if he has been previously convicted of any crime he is guilty of a felony.

NORTH CAROLINA

James Iredell, A Digested Manual of the Acts of the General Assembly of North Carolina, from the Year 1838 to the Year 1846, Inclusive, Omitting All the Acts of a Private and Local Nature, and Such as were Temporary and Whose Operation Has Ceased to Exist Page 73, Image 73 (1847) available at The Making of Modern Law: Primary Sources, 1840.

Crimes and Punishments, 1840 – 1. – Ch. 30, If any free negro, mulatto, or free person of color shall wear, or carry about his or her person, or keep in his or her house, any shot gun, musket, rifle, pistol, sword, dagger, or bowie knife, unless he or she shall have obtained a license therefor from the Court of Pleas and Quarter Sessions of his or her county, within one year preceding the wearing, keeping or carrying thereof, he or she shall be guilty of a misdemeanor and may be indicted therefor.

James Iredell, A Digested Manual of the Acts of the General Assembly of North Carolina, from the Year 1838 to the Year 1846, Inclusive, Omitting All the Acts of a Private and Local Nature, and Such as were Temporary and Whose Operation Has Ceased to Exist Page 75, Image 75 (1847) available at The Making of Modern Law: Primary Sources, 1846.

Crimes and Punishments, 1846 – 7- Ch. 42. It shall not be lawful for any person or persons to sell or barter and deliver, to any slave, or slaves, any gun cotton, fire arms, swords, dirks or other side arms, unless those articles be for the owner or employer, and by the written order of the owner or employer of such slave or slaves, under the penalty of one hundred dollars for each offence, to be recovered, by warrant, before any Justice of the Peace, and applied, one half to the use of the party suing for the same, and the other half to the wardens of the poor of the county; and, moreover, may be indicted in the County or Superior Courts of Law; and the defendant, on conviction, shall be fined or imprisoned at the discretion of the Court; the fine, however, not to exceed fifty dollars, or the imprisonment three months.

1858-1859 N.C. Sess. Laws 34-36, Pub. Laws, An Act Entitled Revenue, chap. 25, § 27, pt. 15.

The following subjects shall be annually listed, and be taxed the amounts specified:
. . . Every dirk, bowie-knife, pistol, sword-cane, dirk-cane and rifle cane, used or worn about the person of any one at any time during the year, one dollar and twenty-five cents. Arms used for mustering shall be exempt from taxation.

1856-1857 N.C. Sess. Laws 34, Pub. Laws, An Act Entitled “Revenue,” ch. 34, § 23, pt. 4, 1856.

On every pistol, except such as are used exclusively for mustering, and on every bowie-knife, one dollar and twenty five cents; on dirks and swordcanes, sixty five cents: Provided, however, That of said arms, only such shall be taxable, as at some time within the year have been used, worn or carried about the person of the owner, or of some other, by his consent.

1858-1859 N.C. Sess. Laws 34-36, Pub. Laws, An Act Entitled Revenue, chap. 25, § 27, pt. 15, 1858.

The following subjects shall be annually listed, and be taxed the amounts specified: . . . Every dirk, bowie-knife, pistol, sword-cane, dirk-cane and rifle cane, used or worn about the person of any one at any time during the year, one dollar and twenty-five cents. Arms used for mustering shall be exempt from taxation.

1860-1861 N.C. Sess. Laws 68, Pub. Laws, An Act to Amend Chapter 107, Section 66, of the Revised Code, Relating to Free Negroes Having Arms, ch. 34, § 1, 1860.

That chapter 107, section 66, of the Revised Code be amended to read as follows: If any free negro shall wear or carry about his person or keep in his house any shot gun, musket, rifle, pistol, sword, sword cane, dagger, bowie knife, powder or shot, he shall be guilty of a misdemeanor, and upon conviction fined not less than fifty dollars.

North Carolina: N.C. Sess. Laws (1879) chap. 127, as codified in North Carolina Code, Crim. Code, chap. 25 (1883) § 1005, Concealed weapons, the carrying or unlawfully, a misdemeanor.

If any one, except when on his own premises, shall carry concealed about his person any pistol, bowie knife, dirk, dagger, slungshot, loaded case, brass, iron or metallic knuckles or razor or other deadly weapon or like kind, he shall be guilty of a misdemeanor, and be fined or imprisoned at the discretion of the court. And if anyone not being on his own lands, shall have about his person any such deadly weapon, such possession shall be prima facie evidence of the concealment thereof.

..

NORTH DAKOTA

1895 N.D. Rev. Codes 1293, Penal Code, Crimes Against the Public Health and Safety, ch. 40, §§ 7312-13.

§ 7312. Carrying or using slung shot. Every person who carries upon his person, whether concealed or not, or uses or attempts to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a felony.

§ 7313. Carrying concealed weapons. Every person who carries concealed about his person any description of firearms, being loaded or partly loaded, or any sharp or dangerous weapon, such as is usually employed in attack or defense of the person, is guilty of a misdemeanor.

1915 N.D. Laws 96, An Act to Provide for the Punishment of Any Person Carrying Concealed Any Dangerous Weapons or Explosives, or Who Has the Same in His Possession, Custody or Control, unless Such Weapon or Explosive Is Carried in the Prosecution of a Legitimate and Lawful Purpose, ch. 83, §§ 1-3, 5.

§ 1. Any person other than a public officer, who carries concealed in his clothes any instrument or weapon of the kind usually known as a black-jack, slung-shot, billy, sand club, sand bag, bludgeon, metal knuckles, or any sharp or dangerous weapon usually employed in attack or defense of the person, or any gun, revolver, pistol or other dangerous fire arm loaded or unloaded, or any person who carries concealed nitro-glycerin, dynamite, or any other dangerous or violent explosive, or has the same in his custody, possession or control, shall be guilty of a felony. . . .

OHIO

1788-1801 Ohio Laws 20, A Law Respecting Crimes and Punishments . . . , ch. 6. Sentence Enhancement for Use of Weapon | Ohio | 1788

Burglary . . . If the person or persons so breaking and entering any dwelling house, shop, store or vessel as aforesaid, shall commit, or attempt to commit any personal abuse, force, or violence, or shall be so armed with any dangerous weapon or weapons as clearly to indicate a violent intention, he, she or they so offending, upon conviction thereof, shall moreover, forfeit all his, her or their estate, real and personal, to this territory, out of which the party injured shall be recompensed as aforesaid, and the offender shall also be committed to any gaol [jail] in the territory for a term not exceeding forty years.

1859 Ohio Laws 56, An Act to Prohibit the Carrying or Wearing of Concealed Weapons, § 1.

Carrying Weapons | Ohio | 1859

[W]hoever shall carry a weapon or weapons, concealed on or about his person, such as a pistol, bowie knife, dirk, or any other dangerous weapon, shall be deemed guilty of a misdemeanor, and on conviction of the first offense shall be

fined not exceeding two hundred dollars, or imprisoned in the county jail not more than thirty days; and for the second offense, not exceeding five hundred dollars, or imprisoned in the county jail not more than three months, or both, at the discretion of the court.

Joseph Rockwell Swan, *The Revised Statutes of the State of Ohio, of a General Nature, in Force August 1, 1860. With Notes of the Decisions of the Supreme Court* Page 452, Image 464 (1860) available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | Ohio | 1859

An Act to Prohibit the Carrying or Wearing of Concealed Weapons, §§ 1-2.

§ 1. Be it enacted by the General Assembly of the State of Ohio, that whoever shall carry a weapon or weapons, concealed on or about his person, such as a pistol, bowie knife, dirk, or any other dangerous weapon, shall be deemed guilty of a misdemeanor, and on conviction of the first offense shall be fined not exceeding two hundred dollars, or imprisoned in the county jail not more than thirty days; and for the second offense, not exceeding five hundred dollars, or imprisoned in the county jail not more than three months, or both, at the discretion of the court. Sec.

§ 2. If it shall be proved to the jury, from the testimony on the trial of any case presented under the [section of this act banning the carrying of concealed weapons], that the accused was, at the time of carrying any of the weapon or weapons aforesaid, engaged in the pursuit of any lawful business, calling, or employment, and that the circumstances in which he was placed at the time aforesaid were such as to justify a prudent man in carrying the weapon or weapons aforesaid for the defense of his person, property or family, the jury shall acquit the accused.

Michael Augustus Daugherty, *The Revised Statutes and Other Acts of a General Nature of the State of Ohio: In Force January 1, 1880* Page 1633, Image 431 (Vol. 2, 1879) available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | Ohio | 1880

Offences Against Public Peace, § 6892.

Whoever carries any pistol, bowie-knife, dirk, or other dangerous weapon, concealed on or about his person, shall be fined not more than two hundred dollars, or imprisoned not more than five hundred dollars, or imprisoned not more than three months, or both.

OKLAHOMA

1890 Okla. Laws 495, art. 47

Brandishing, Carrying Weapons, Hunting, Possession by, Use of, and Sales to
Minors and Others Deemed Irresponsible | Oklahoma | 1890

§ 1. It shall be unlawful for any person in the Territory of Oklahoma to carry concealed on or about his person, saddle, or saddle bags, any pistol, revolver, bowie knife, dirk, dagger, slung-shot, sword cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense except as in this article provided.

§ 2. It shall be unlawful for any person in the Territory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided.

§ 3. It shall be unlawful for any person within this Territory, to sell or give to any minor any of the arms or weapons designated in sections one and two of this article.

§ 4. Public officers while in the discharge of their duties or while going from their homes to their place of duty, or returning therefrom, shall be permitted to carry arms, but at no other time and under to other circumstances: Provided, however, That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person.

§ 5. Persons shall be permitted to carry shot-guns or rifles for the purpose of hunting, having them repaired, or for killing animals, or for the purpose of using the same in public muster or military drills, or while traveling or removing from one place to another, and not otherwise.

§ 7. It shall be unlawful for any person, except a peace officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly, any of the weapons designated in sections one and two of this article.

§ 8. It shall be unlawful for any person in this Territory to carry or wear any deadly weapons or dangerous instrument whatsoever, openly or secretly, with the intent or for the avowed purpose of injuring his fellow man.

§ 9. It shall be unlawful for any person to point any pistol or any other deadly weapon whether loaded or not, at any other person or persons either in anger or otherwise.

1890 Okla. Sess. Laws 475, Crimes Against The Public Health And Safety, §§ 18-19.

§ 18. Every person who manufactures or causes to be manufactured, or sells or offers or keeps for sale, or gives or disposes of any instrument or weapon of the kind usually known as slung shot, or of any similar kind is guilty of a misdemeanor.

§ 19. Every person who carries upon his person, whether concealed or not or uses or attempts to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a felony.

General Laws Relating to Incorporated Towns of Indian Territory Page 37, Image 33 (1890) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Oklahoma | 1890

Revised Ordinances of the Town of Checotah, Ordinance No. 11, § 3.

To wear or carry any pistol of any kind whatever, or any dirk, butcher knife or bowie knife, or a sword, or a spear in a cane, brass or metal knuckles or a razor, slung shot, sand bag, or a knife with a blade over three inches long, with a spring handle, as a weapon.

Leander G. Pitman, The Statutes of Oklahoma, 1890. (From the Laws Passed by the First Legislative Assembly of the Territory) Page 495-496, Image 511-512 (1891) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Oklahoma | 1891

Concealed Weapons, §§ 1, 2, 4-10.

§ 1. It shall be unlawful for any person in the Territory of Oklahoma to carry concealed on or about his person, saddle, or saddle bags, any pistol, revolver, bowie knife, dirk, dagger, slung-shot, sword cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense except as in this article provided.

§ 2. It shall be unlawful for any person in this territory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided.

§ 4. Public officers while in the discharge of their duties or while going from their homes to their place of duty, or returning therefrom, shall be permitted to carry arms, but at no other time and under no other circumstances: Provided, however That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person.

§ 5. Persons shall be permitted to carry shot-guns or rifles for the purpose of hunting, having them repaired, or for killing animals, or for the purpose of using the same in public muster or military drills, or while travelling or removing from one place to another, and not otherwise.

§ 6. Any person violating the provisions of any one of the forgoing sections, shall on the first conviction be adjudged guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not to exceed thirty days or both at the discretion of the court. On the second and every subsequent conviction, the party offending shall on conviction be fined not less than fifty dollars nor more than two hundred and fifty dollars or be imprisoned in the county jail not less than thirty days nor more than three months or both, at the discretion of the court.

§ 7. It shall be unlawful for any person, except a peace officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly, any of the weapons designated in sections one and two of this article.

§ 8. It shall be unlawful for any person in this territory to carry or wear any deadly weapons or dangerous instrument whatsoever, openly or secretly, with the intent or for the avowed purpose of injuring his fellow man.

§ 9. It shall be unlawful for any person to point any pistol or any other deadly weapon whether loaded or not, at any other person or persons either in anger or otherwise.

§ 10. Any person violating the provisions of section seven, eight, or nine of this article; shall on conviction, be punished by a fine of not less than fifty dollars, nor more than five hundred and shall be imprisoned in the county jail for not less than three nor more than twelve months.

Wilson's Rev. & Ann. St. Okla.(1903) § 583, c. 25.

It shall be unlawful for any person in the territory of Oklahoma to carry concealed on or about his person, saddle, or saddle bags, any pistol, revolver, bowie knife, dirk, dagger, slung-shot, sword cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense except as in this article provided.

OREGON

1885 Or. Laws 33, An Act to Prevent Persons from Carrying Concealed Weapons and to Provide for the Punishment of the Same, §§ 1-2.

§ 1. It shall be unlawful for any person to carry concealed about his person in any manner whatever any revolver, pistol, or other fire-arm, or any knife (other than an ordinary pocket knife), or any dirk or dagger, slung-shot or metal knuckles, or any instrument by the use of which injury could be inflicted upon the person or property of any other person.

§ 2. Any person violating any of the provisions of section one of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than five days nor more than one hundred days, or by both fine and imprisonment, in the discretion of the court.

Laws of Oregon (1885), An Act to Prevent Persons from Carrying Concealed Weapons, § 1-4, p. 33, as codified in Ore. Code, chap. 8 (1892) § 1969.

It shall be unlawful for any person to carry concealed about his person in any manner whatever any revolver, pistol, or other fire-arm, or any knife (other than an ordinary pocket knife), or any dirk or dagger, slung-shot or metal knuckles, or any instrument by the use of which injury could be inflicted upon the person or property of any other person.

The Charter of Oregon City, Oregon, Together with the Ordinances and Rules of Order Page 259, Image 261 (1898) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Oregon | 1898

An Ordinance Providing for the Punishment of Disorderly Persons, and Keepers and Owners of Disorderly Houses, § 2.

It shall be unlawful for any person to carry any sling shot, billy, dirk, pistol or any concealed deadly weapon or to discharge any firearms, air gun, sparrow gun, flipper or bean shooter within the corporate limits of the city, unless in self-defense, in protection of property or an officer in the discharge of his duty; provided, however, permission may be granted by the mayor to any person to carry a pistol or revolver when upon proper representation it appears to him necessary or prudent to grant such permission.

1917 Or. Sess. Laws 804-808, An Act Prohibiting the manufacture, sale, possession, carrying, or use of any blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger or stiletto, and regulating the carrying and sale of certain firearms, and defining the duties of certain executive officers, and providing penalties for violation of the provisions of this Act, §§ 7-8.

Carrying Weapons | Oregon | 1917

§ 7. Any person who attempts to use, or who with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any loaded pistol, revolver or other firearm, or any instrument or weapon of the kind commonly known as a blackjack, slung-shot, billy, sandclub, sandbag, metal knuckles, bomb or bomb-shell, or any other dangerous or deadly weapon or instrument, is guilty of a felony. The carrying or possession of any of the weapons specified in this section by any person while committing, or attempting or threatening to commit a felony, or a breach of the peace, or any act of violence against the person or property of another, shall be presumptive evidence of carrying or possessing such weapon with intent to use the same in violation of this section.

Any person who violates the provisions of this section shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than \$50.00 nor more than \$500.00, or by imprisonment in the county jail for not less than one month nor more than six months, or by imprisonment in the penitentiary for not exceeding five years.

§ 8. Whenever any person shall be arrested and it shall be discovered that such person possesses or carries or has possessed or carried upon his person any loaded pistol, revolver or other firearm, or any weapon named or enumerated in Section 7 of this Act, in violation of any of the sections of this Act, it shall be the duty of the person making the arrest to forthwith lay an information for a violation of said section or sections against the person arrested before the nearest or most accessible magistrate having jurisdiction of the offense, and such magistrate must entertain and examine such information and act thereon in the manner prescribed by law.

Section 11. Any person not a citizen of the United States of America, who shall be convicted of carrying a deadly weapon, as described in Sections 1, 2 and 7 of this Act, shall be guilty of a felony and on conviction thereof shall be punished by imprisonment in the State prison for a period not exceeding five years.

PENNSYLVANIA

1851 Pa. Laws 382, An Act Authorizing Francis Patrick Kenrick, Bishop Of Philadelphia, To Convey Certain Real Estate In The Borough Of York, And A supplement To The Charter Of Said Borough, § 4.

That any person who shall willfully and maliciously carry any pistol, gun, dirk knife, slung shot, or deadly weapon in said borough of York ,shall be deemed guilty of a felon, and being thereof convicted shall be sentenced to undergo an imprisonment at hard labor for a term not less than 6 months nor more than one

year and shall give security for future good behavior for such sum and for such time as the court before whom such conviction shall take place may fix

Laws of the City of Johnstown, Pa., Embracing City Charter, Act of Assembly of May 23, 1889, for the Government of Cities of the Third Class, General and Special Ordinances, Rules of Select and Common Councils and Joint Sessions Page 86, Image 86 (1897) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Pennsylvania | 1897

An Ordinance for the Security of Persons and Property of the Inhabitants of the City of Johnstown; The preservation of the Public Peace and Good Order of the City, and Prescribing Penalties for Offenses Against the Same, § 12.

No person shall willfully carry concealed upon his or her person any pistol, razor, dirk or bowie-knife, black jack, or handy billy, or other deadly weapon, and any person convicted of such offense shall pay a fine of not less than five dollars or more than fifty dollars with costs.

RHODE ISLAND

1893 R.I. Pub. Laws 231, An Act Prohibiting The Carrying Of Concealed Weapons, chap. 1180, § 1.

No person shall wear or carry in this state any dirk, bowie knife, butcher knife, dagger, razor, sword in cane, air gun, billy, brass or metal knuckles, slung shot, pistol or fire arms of any description, or other weapons of like kind and description concealed upon his persons . . . [additional fine provided if intoxicated while concealed carrying].

1893 R.I. Pub. Laws 231, An Act Prohibiting The Carrying Of Concealed Weapons, chap. 1180, §§1-3.

Carrying Weapons, Sentence Enhancement for Use of Weapon | Rhode Island | 1893

§ 1. No person shall wear or carry in this state any dirk, bowie knife, butcher knife, dagger, razor, sword in cane, air gun, billy, brass or metal knuckles, slung shot, pistol or fire arms of any description, or other weapons of like kind and description concealed upon his person: Provided, that officers or watchmen whose duties require them to make arrests or to keep and guard prisoners or property, together with the persons summoned by such officers to aid them in the discharge of such duties, while actually engaged in such duties, are exempted from the provisions of this act.

§ 2. Any person convicted of a violation of the provisions of section 1 shall be fined not less than twenty dollars nor more than two hundred dollars, or be imprisoned not less than six months nor more than one year.

§ 3. Whenever any person shall be arrested charged with any crime or misdemeanor, or for being drunk or disorderly, or for any breach of the peace, and shall have concealed upon his person any of the weapons mentioned in section 1, such person, upon complaint and conviction, in addition to the penalties provided in section 2, shall be subject to a fine of not less than five dollars nor more than twenty five dollars, and the confiscation of the weapon so found.

General Laws of the State of Rhode Island and Providence Plantations to Which are Prefixed the Constitutions of the United States and of the State Page 1010-1011, Image 1026-1027 (1896) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Rhode Island | 1896

Offences Against Public Policy, §§ 23, 24, 26.

§ 23. No person shall wear or carry in this state any dirk, bowie-knife, butcher knife, dagger, razor, sword-in-cane, air-gun, billy, brass or metal knuckles, slung-shot, pistol or fire-arms of any description, or other weapons of like kind and description concealed upon his person: provided, that officers or watchmen whose duties require them to make arrests or to keep and guard prisoners or property, together with the persons summoned by such officers to aid them in the discharge of such duties, while actually engaged in such duties, are exempted from the provisions of this and the two following sections.

§ 24. Any person convicted of a violation of the provisions of the preceding section shall be fined not less than ten nor more than twenty dollars, or be imprisoned not exceeding three months, and the weapon so found concealed shall be confiscated

....

§ 26. No negative allegations of any kind need be averred or proved in any complaint under the preceding three sections, and the wearing or carrying of such concealed weapons or weapons shall be evidence that the wearing or carrying of the same is unlawful; but the respondent in any such case may show any fact that would render the carrying of the same lawful under said sections.

1908 (January Session) R.I. Pub. Laws 145, An Act in Amendment of section 23 of chapter 283 of the General Laws

Carrying Weapons | Rhode Island | 1908

§ 23. No person shall wear or carry in this state any dirk, dagger, razor, sword-in-cane, bowie knife, butcher knife, or knife of any description having a blade of more than three inches in length, measuring from the end of the handle, where the

blade is attached to the end of said blade, any air gun, billy, brass or metal knuckles, slung-shot, pistol or firearms of any description, or other weapons of like kind and description, concealed upon his person: Provided, that officers or watchmen whose duties require them to arrest or to keep and guard prisoners or property, together with the persons summoned by such officers to aid them in the discharge of such duties, while actually engaged in such duties, are exempted from the provision of this and the two other following sections.

SOUTH CAROLINA

1880 S.C. Acts 448, § 1, as codified in S.C. Rev. Stat. (1894). § 129 (2472.)
§ 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, not met and sitting in General Assembly, and by the authority of the same, That any person carrying a pistol , dirk, dagger, slung shot, metal knuckles, razor, or other deadly weapon usually used for the infliction of personal injury, concealed about his person shall be guilty of a misdemeanor and upon conviction thereof, before a Court of competent jurisdiction shall forfeit to the County the weapon so carried concealed and be fined in a sum not more than two hundred dollars, or imprisoned for not more than twelve months, or both, in the discretion of the Court.

§ 2. It shall be the duty of every Trial Justice, Sheriff, Constable, or other peace officer, to cause all persons violating this Act to be prosecuted therefor whenever they shall discover a violation hereof.

1923 S.C. Acts 221

If any person shall knowingly sell, offer for sale, give, or in any way dispose of to a minor any pistol or pistol cartridge, brass knucks, bowie knife, dirk, loaded cane or sling shot, he shall be guilty of a misdemeanor. Any person being the parent or guardian, of or attending in loco parentis to any child under the age of twelve years who shall knowingly permit such child to have the possession or custody of, or use in any manner whatever any gun, pistol, or other dangerous firearm, whether such firearm be loaded or unloaded, or any person who shall knowingly furnish such child any firearm, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding Fifty Dollars or imprisoned not exceeding thirty days.

SOUTH DAKOTA

S.D. Terr. Pen. Code (1877), § 457 as codified in S.D. Rev. Code, Penal Code (1903), §§ 470-471.

§ 470. Every person who carries upon his person, whether concealed or not, or uses or attempt to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a felony.

§ 471. Every person who carries concealed about his person any description of firearms, being loaded or partly loaded, or any sharp or dangerous weapons, such as is usually employed in attack or defense of the person, is guilty of a misdemeanor.

S.D. Rev. Code, Penal Code 1150 (1903) §§ 470, 471

§ 470. Every person who carries upon his person, whether concealed or not, or uses or attempt to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a felony.

§ 471. Every person who carries concealed about his person any description of firearms, being loaded or partly loaded, or any sharp or dangerous weapons, such as is usually employed in attack or defense of the person, is guilty of a misdemeanor.

TENNESSEE

1837-38 Tenn. Pub. Acts 200-01, An Act to Suppress the Sale and Use of Bowie Knives and Arkansas Tooth Picks in this State, ch 137, § 2.

That if any person shall wear any Bowie knife, Arkansas tooth pick, or other knife or weapon that shall in form, shape or size resemble a Bowie knife or Arkansas toothpick under his clothes, or keep the same concealed about his person, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than two hundred dollars, nor more than five hundred dollars, and shall be imprisoned in the county jail not less than three months and not more than six months.

1837-1838 Tenn. Pub. Acts 200, An Act to Suppress the Sale and Use of Bowie Knives and Arkansas Tooth Picks in this State, ch. 137, § 1.

That if any merchant, . . . shall sell, or offer to sell . . . any Bowie knife or knives, or Arkansas tooth picks . . . such merchant shall be guilty of a misdemeanor, and upon conviction thereof upon indictment or presentment, shall be fined in a sum not less than one hundred dollars, nor more than five hundred dollars, and shall be imprisoned in the county jail for a period not less than one month nor more than six months.

1837-1838 Tenn. Pub. Acts 201, An Act to Suppress the Sale and Use of Bowie Knives and Arkansas Tooth Picks in the State, ch. 137, § 4.

That if any person carrying any knife or weapon known as a Bowie knife, Arkansas tooth pick, or any knife or weapon that shall in form, shape or size resemble a Bowie knife, on a sudden rencounter [sic], shall cut or stab another person with such knife or weapon, whether death ensues or not, such person so stabbing or cutting shall be guilty of a felony, and upon conviction thereof shall be confined in the jail and penitentiary house of this state, for a period of time not less than three years, nor more than fifteen years.

Seymour Dwight Thompson, A Compilation of the Statute Laws of the State of Tennessee, of a General and Permanent Nature, Compiled on the Basis of the Code of Tennessee, With Notes and References, Including Acts of Session of 1870-1871 Page 125, Image 794 (Vol. 2, 1873) available at The Making of Modern Law: Primary Sources. [1856]

Offences Against Public Policy and Economy. § 4864.

Any person who sells, loans, or gives, to any minor a pistol, bowie-knife, dirk, Arkansas tooth-pick, hunter's knife, or like dangerous weapon, except a gun for hunting or weapon for defense in traveling, is guilty of a misdemeanor, and shall be fined not less than twenty-five dollars, and be imprisoned in the county jail at the discretion of the court.

William H. Bridges, Digest of the Charters and Ordinances of the City of Memphis, Together with the Acts of the Legislature Relating to the City, with an Appendix Page 190, Image 191 (1863) available at The Making of Modern Law: Primary Sources.

Offences Affecting Public Safety: Carrying Concealed Weapons, § 3.

It shall not be lawful for any person or persons to carry concealed about his or their persons any pistol, Bowie-knife, dirk, or any other deadly weapon; and any person so offending, shall upon conviction thereof before the Recorder, be fined not less than ten nor more than fifty dollars for each and every offence.

William H. Bridges, Digest of the Charters and Ordinances of the City of Memphis, from 1826 to 1867, Inclusive, Together with the Acts of the Legislature Relating to the City, with an Appendix Page 44, Image 44 (1867) available at The Making of Modern Law: Primary Sources.

Police Regulations Of The State, Offences Against Public Peace, §§ 4746, 4747, 4753, 4757.

§ 4746. Any person who carries under his clothes or concealed about his person, a bowie-knife, Arkansas tooth-pick or other knife or weapon of like form and shape or size, is guilty of a misdemeanor.

§ 4747. It is a misdemeanor to sell, or offer to sell, or to bring into the State for the purpose of selling, giving away or otherwise disposing of any knife or weapon mentioned in the preceding section.

§ 4753. No person shall ride or go armed to the terror of the people, or privately carry any dirk, large knife, pistol or any dangerous weapon, to the fear or terror of any person.

§ 4757. No person shall either publicly or privately carry a dirk, sword-cane, Spanish stiletto, belt or pocket pistol, except a knife, conspicuously on the strap of a shot-pouch, or on a journey to a place out of his county or State.

William H. Bridges, Digest of the Charters and Ordinances of the City of Memphis, from 1826 to 1867, Inclusive, Together with the Acts of the Legislature Relating to the City, with an Appendix Page 50, Image 50 (1867) available at The Making of Modern Law: Primary Sources.

Police Regulations of the State. Selling Liquors or Weapons to Minors. § 4864. Any person who sells, loans or gives to any minor a pistol, bowie-knife, dirk, Arkansas toothpick, hunter's knife, or like dangerous weapon, except a gun for hunting or weapon for defense in traveling, is guilty of a misdemeanor and shall be fined not less than twenty-five dollars, and imprisoned in the county jail at the discretion of the court.

William H. Bridges, Digest of the Charters and Ordinances of the City of Memphis, from 1826 to 1867, Inclusive, Together with the Acts of the Legislature Relating to the City, with an Appendix Page 44, Image 44 (1867) available at The Making of Modern Law: Primary Sources.

Police Regulations Of the State. Offences Against Public Peace. Concealed Weapons. §§ 4746-4747.

§ 4746. Any person who carries under his clothes or concealed about his person, a bowie-knife, Arkansas tooth-pick or other knife or weapon of like form and shape or size, is guilty of a misdemeanor. Selling such weapons misdemeanor.

§ 4747. It is a misdemeanor to sell, or offer to sell, or to bring into the state for the purpose of selling, giving away or otherwise disposing of any knife or weapon mentioned in the preceding Section.

James H. Shankland Public Statutes of the State of Tennessee, since the Year 1858. Being in the Nature of a Supplement to the Code Page 108, Image 203 (Nashville, 1871) available at The Making of Modern Law: Primary Sources. 1869 Elections.

§ 2. That it shall not be lawful for any qualified voter or other person attending any election in this State, or for any person attending any fair, race course, or other

public assembly of the people, to carry about his person, concealed or otherwise, any pistol, dirk, Bowie-knife, Arkansas toothpick, or weapon in form, shape, or size resembling a Bowie knife or Arkansas tooth-pick, or other deadly or dangerous weapon.

§ 3. That all persons convicted under the second section of this act shall be punished by fine of not less than fifty dollars, and by imprisonment, or both, at the discretion of the court.

Tenn. Pub. Acts (1879), chap. 186, as codified in Tenn. Code (1884). 5533: It shall not be lawful for any person to carry, publicly or privately, any dirk, razor concealed about his person, sword cane, loaded cane, slung-shot or brass knucks, Spanish stiletto, belt or pocket pistol, revolver, or any kind of pistol, except the army or navy pistol used in warfare, which shall be carried openly in hand.

William King McAlister Jr., Ordinances of the City of Nashville, to Which are Prefixed the State Laws Chartering and Relating to the City, with an Appendix Page 340-341, Image 345-346 (1881) available at The Making of Modern Law: Primary Sources.

Ordinances of the City of Nashville, Carrying Pistols, Bowie-Knives, Etc., § 1. That every person found carrying a pistol, bowie-knife, dirk-knife, slung-shot, brass knucks or other deadly weapon, shall be deemed guilty of a misdemeanor, and, upon conviction of such first offense, shall be fined from ten to fifty dollars, at the discretion of the court, but upon conviction of every such subsequent offense, shall be fined fifty dollars; Provided, however, that no ordinary pocket knife and common walking-canes shall be construed to be deadly weapons.

Claude Waller, Digest of the Ordinances of the City of Nashville, to Which are Prefixed the State Laws Incorporating, and Relating to, the City, with an Appendix Containing Various Grants and Franchises Page 364-365, Image 372-373 (1893) available at The Making of Modern Law: Primary Sources.

Ordinances of the City of Nashville, § 738.

Every person found carrying a pistol, bowie-knife, dirk-knife, slung-shot, brass knucks, or other deadly weapon, shall be deemed guilty of a misdemeanor, and, upon conviction of such first offense, shall be fined from ten to fifty dollars, at the discretion of the court; but, upon conviction of every subsequent offense, shall be fined fifty dollars; Provided, however, That no ordinary pocket-knife and common walking canes shall be construed to be deadly weapons. . .

TEXAS

A Digest of the General Statute Laws of the State of Texas: to Which Are Subjoined the Repealed Laws of the Republic and State of Texas (Austin, Texas: Williamson S. Oldham & George W. White, comp., 1859)

Texas, Chapter 3, Act of August 28, 1856

Art. 493. If any person shall assault another with intent to murder, he shall be punished by confinement in the Penitentiary, not less than two years, nor more than seven years. If the assault be made with a bowie-knife, or dagger, the punishment shall be doubled. Page 520

<https://babel.hathitrust.org/cgi/pt?id=mdp.39015073228879&view=1up&seq=538&q1=bowie%20knife>

Art. 610. If any person be killed with a *bowie knife* or *dagger*, under circumstances which would otherwise render the homicide a case of manslaughter, the killing shall nevertheless be deemed murder, and punished accordingly. [emphasis in original] Page 534

<https://babel.hathitrust.org/cgi/pt?id=mdp.39015073228879&view=1up&seq=552&q1=bowie%20knife>

1871 Tex. Laws 25, An Act to Regulate the Keeping and Bearing of Deadly Weapons.

§ 1. Be it enacted by the Legislature of the State of Texas, That any person carrying on or about his person, saddle, or in his saddle bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purposes of offense or defense, unless he had reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing; or unless having or carrying the same on or about his person for the lawful defense of the State, as a militiaman in actual service, or as a peace officer or policeman, shall be guilty of a misdemeanor, and on conviction thereof shall, for the first offense, be punished by fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit to the county the weapon or weapons so found on or about his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not exceeding sixty days; and in every case of fine under this section the fine imposed and collected shall go into the treasury of the county in which they may have been imposed; provided, that this section shall not be so construed as to prohibit any person from keeping or bearing arms on his or her own premises, or at his or her own place of business, nor to prohibit sheriffs or other revenue officers, and other civil officers, from keeping or bearing arms while engaged in the discharge of their official duties, nor to prohibit persons traveling in the State from keeping or carrying arms with their baggage; provided

further, that members of the Legislature shall not be included under the term “civil officers” as used in this act.

§ 2. Any person charged under the first section of this act, who may offer to prove, by way of defense, that he was in danger of an attack on his person, or unlawful interference with his property, shall be required to show that such danger was immediate and pressing, and was of such a nature as to alarm a person of ordinary courage; and that the weapon so carried was borne openly and not concealed beneath the clothing; and if it shall appear that this danger had its origin in a difficulty first commenced by the accused, it shall not be considered as a legal defense.

Tex. Act of Apr. 12, 1871, as codified in Tex. Penal Code (1879).
Art. 163.

If any person other than a peace officer, shall carry any gun, pistol, bowie knife, or other dangerous weapon, concealed or unconcealed, on any day of election, during the hours the polls are open, within the distance of one-half mile of any poll or voting place, he shall be punished as prescribed in article 161 of the code.

1879 Tex. Crim. Stat. tit. IX, Ch. 4 (Penal Code)

Art. 318. If any person in this state shall carry on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purposes of offense or defense, he shall be punished by fine of not less than twenty-five nor more than one hundred dollars; and, in addition thereto, shall forfeit to the county in which he is convicted, the weapon or weapons so carried.

Art. 319. The preceding article shall not apply to a person in actual service as a militiaman, nor to a peace officer or policeman, or person summoned to his aid, not to a revenue or other civil officer engaged in the discharge of official duty, not to the carrying of arms on one’s own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process.

Art. 320. If any person shall go into any church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball-room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to muster, or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other fire-arm, dirk,

dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of a knife manufactured and sold for the purposes of offense and defense, he shall be punished by fine not less than fifty nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.

Art. 321. The preceding article shall not apply to peace officers, or other persons authorized or permitted by law to carry arms at the places therein designated.

Art. 322. Any person violating any of the provisions of articles 318 and 320, may be arrested without warrant by any peace officer, and carried before the nearest justice of the peace for trial; and any peace officer who shall fail to refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by fine not exceeding five hundred dollars.

Art. 323. The provisions of this chapter shall not apply to or be enforced in any county which the governor may designate, by proclamation, as a frontier county and liable to incursions by hostile Indians.

1897 Tex. Gen. Laws 221, An Act To Prevent The Barter, Sale And Gift Of Any Pistol, Dirk, Dagger, Slung Shot, Sword Cane, Spear, Or Knuckles Made Of Any Metal Or Hard Substance To Any Minor Without The Written Consent Of The Parent Or Guardian Of Such Minor. . . , chap. 155.

That if any person in this State shall knowingly sell, give or barter, or cause to be sold, given or bartered to any minor, any pistol, dirk, dagger, slung shot, sword-cane, spear or knuckles made of any metal or hard substance, bowie knife or any other knife manufactured or sold for the purpose of offense or defense, without the written consent of the parent or guardian of such minor, or of someone standing in lieu thereof, he shall be punished by fine of not less then twenty-five nor more than two hundred dollars, or by imprisonment in the county jail not less than ten nor more than thirty days, or by both such fine and imprisonment and during the time of such imprisonment such offender may be put to work upon any public work in the county in which such offense is submitted.

Theodore Harris, Charter and Ordinances of the City of San Antonio. Comprising All Ordinances of a General Character in Force August 7th, Page 220, Image 225 (1899) available at The Making of Modern Law: Primary Sources.

Brandishing | Texas | 1899

Ordinances of the City of San Antonio, Ordinances, ch. 22, § 4.

If any person shall, within the city limits, draw any pistol, gun, knife, sword-cane, club or any other instrument or weapon whereby death may be caused, in a threatening manner, or for the purpose of intimidating others, such person shall be deemed guilty of an offense.

UTAH

Dangerous and Concealed Weapon, Feb. 14, 1888, reprinted in *The Revised Ordinances Of Salt Lake City, Utah* 283 (1893) (Salt Lake City, Utah). § 14. Any person who shall carry and slingshot, or any concealed deadly weapon, without the permission of the mayor first had and obtained, shall, upon conviction, be liable to a fine not exceeding fifty dollars.

Chapter 5: Offenses Against the Person, undated, reprinted in *The Revised Ordinances Of Provo City, Containing All The Ordinances In Force* 105, 106-7 (1877) (Provo, Utah).

§ 182: Every person who shall wear, or carry upon his person any pistol, or other firearm, slungshot, false knuckles, bowie knife, dagger or any other dangerous or deadly weapon, is guilty of an offense, and liable to a fine in any sum not exceeding twenty-five dollars; Provided, that nothing in this section, shall be construed to apply to any peace officer, of the United States, the Territory of Utah, or of this city.¹

VERMONT

No. 85.—An Act Against Carrying Concealed Weapons, Ch. 85, p. 95. 1892.
Section 1. A person who shall carry a dangerous or deadly weapon, openly or concealed, with the intent or avowed purpose of injuring a fellow man, shall, upon conviction thereof, be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding two years, or both, in the discretion of the court.
Sec. 2. A person who shall carry or have in his possession while a member of and in attendance upon any school, any firearms, dirk knife, bowie knife, dagger or other dangerous or deadly weapon shall, upon conviction thereof, be fined not exceeding twenty dollars.

Approved November 19, 1892.

[https://www.google.com/books/edition/Acts and Laws Passed by the Legislature/DXFOAQAAIAAJ?hl=en&gbpv=1&dq=Vermont+%22while+a+member+of+an+d+in+attendance+upon+any+school,%22++%22any+firearms,+dirk+knife,+bowie](https://www.google.com/books/edition/Acts_and_Laws_Passed_by_the_Legislature/DXFOAQAAIAAJ?hl=en&gbpv=1&dq=Vermont+%22while+a+member+of+an+d+in+attendance+upon+any+school,%22++%22any+firearms,+dirk+knife,+bowie)

¹ See http://www.supremecourt.gov/DocketPDF/18/18-280/99640/20190514123503867_Charles%20Appendix.pdf.

[+knife,+dagger+or+other+dangerous+or+deadly+weapon%22%C2%A0&pg=PA95&printsec=frontcover](#)

Ordinances of the City of Barre, Vermont
Carrying Weapons, Firing Weapons | Vermont | 1895
CHAPTER 16, § 18.

No person, except on his own premises, or by the consent and permission of the owner or occupant of the premises, and except in the performance of some duty required by law, shall discharge any gun, pistol, or other fire arm loaded with ball or shot, or with powder only, or firecrackers, serpent, or other preparation whereof gunpowder or other explosive substance is an ingredient, or which consists wholly of the same, nor shall make any bonfire in or upon any street, lane, common or public place within the city, except by authority of the city council.

CHAPTER 38, SEC. 7. No person shall carry within the city any steel or brass knuckles, pistol, slung shot, stiletto, or weapon of similar character, nor carry any weapon concealed on his person without permission of the mayor or chief of police in writing.²

² See http://www.supremecourt.gov/DocketPDF/18/18-280/99640/20190514123503867_Charles%20Appendix.pdf.

VIRGINIA

Collection of All Such Acts of the General Assembly of Virginia, of a Public and Permanent Nature, as Are Now in Force; with a New and Complete Index. To Which are Prefixed the Declaration of Rights, and Constitution, or Form of Government Page 187, Image 195 (1803) available at The Making of Modern Law: Primary Sources.

Race and Slavery Based | Virginia | 1792

[An Act to Reduce into one, the Several Acts Concerning Slaves, Free Negroes, and Mulattoes (1792),] §§ 8-9.

§8. No negro or mulatto whatsoever shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun, weapon, and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person, and upon due proof thereof made before any Justice of the Peace of the County or Corporation where such seizure shall be, shall by his order be forfeited to the seizer for his own use ; and moreover, every such offender shall have and receive by order of such Justice, any number of lashes not exceeding thirty-nine, on his or her bare back, well laid on, for every such offense.

§ 9. Provided, nevertheless, That every free negro or mulatto, being a house-keeper, may be permitted to keep one gun, powder and shot; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder, shot, and weapons offensive or defensive, by license from a Justice of Peace of the County wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves.

Acts of the General Assembly of Virginia, Passed at the Session of 1838, chap. 101, at 76; 1838.

Be it enacted by the general assembly, That if any person shall hereafter habitually or generally keep or carry about his person any pistol, dirk, bowie knife, or any other weapon of the like kind, from this use of which the death of any person might probably ensue, and the same be hidden or concealed from common observation, and he be thereof convicted, he shall for every such offense forfeit and pay the sum of not less than fifty dollars nor more than five hundred dollars, or be imprisoned in the common jail for a term not less than one month nor more than six months, and in each instance at the discretion of the jury; and a moiety of the penalty recovered in any prosecution under this act, shall be given to any person who may voluntarily institute the same.

1847 Va. Laws 127, c. 14, § 16.

If any person shall go armed with any offensive or dangerous weapon without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may be required to find sureties for keeping the peace for a term not exceeding twelve months, with the right of appealing as before provided.

Staunton, The Charter and General Ordinances of the Town of Lexington, Virginia Page 87, Image 107 (1892) available at The Making of Modern Law: Primary Sources, 1867.

Ordinances of The Town of Lexington, VA, Of Concealed Weapons and Cigarettes, § 1. If any person carrying about his person, hid from common observation, any pistol, dirk, bowie-knife, razor, slung-shot, or any weapon of the like kind, he shall be fined not less than twenty dollars nor more than one hundred dollars; and any of such weapons mentioned shall be forfeited to the town. Nothing in this section shall apply to any officer of the town, county or state while in the discharge of his duty.

The Code of Virginia: With the Declaration of Independence and the Constitution of the United States; and the Constitution of Virginia Page 897, Image 913 (1887) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Virginia | 1887

Offences Against the Peace, § 3780. Carrying Concealed Weapons, How Punished. Forfeiture and Sale of Weapons. If any person carry about his person, hid from common observation, any pistol, dirk, bowie-knife, razor, slung-shot, or any weapon of the like kind, he shall be fined not less than twenty nor more than one hundred dollars, and such pistol, dirk, bowie-knife, razor, slung-shot, or any weapon of the like kind, shall be forfeited to the commonwealth and may be seized by an officer as forfeited; and upon the conviction of the offender the same shall be sold and the proceeds accounted for and paid over as provided in section twenty-one hundred and ninety: Provided, that this section shall not apply to any police officer, town or city sergeant, constable, sheriff, conservator of the peace, or collecting officer, while in the discharge of his official duty.

WASHINGTON

1854 Wash. Sess. Law 80, An Act Relative to Crimes and Punishments, and Proceedings in Criminal Cases, ch. 2, § 30.

Brandishing | Washington | 1854

Every person who shall, in a rude, angry, or threatening manner, in a crowd of two or more persons, exhibit any pistol, bowie knife, or other dangerous weapon, shall

on conviction thereof, be imprisoned in the county jail not exceeding one year, and be fined in any sum not exceeding five hundred dollars.

1859 Wash. Sess. Laws 109, An Act Relative to Crimes and Punishments, and Proceedings in Criminal Cases, ch. 2, § 30.

Brandishing | Washington | 1859

Every person who shall, in a rude, angry or threatening manner, in a crowd of two or more persons, exhibit any pistol, bowie knife or other dangerous weapon, shall, on conviction thereof, be imprisoned in the county jail not exceeding one year, and be fined in any sum not exceeding five hundred dollars.

1869 Wash. Sess. Laws 203-04, An Act Relative to Crimes and Punishments, and Proceedings in Criminal Cases, ch. 2, § 32.

Brandishing | Washington | 1869

Every person who shall, in a rude, angry or threatening manner, in a crowd of two or more persons, exhibit any pistol, bowie knife, or other dangerous weapon, shall on conviction thereof, be imprisoned in the county jail not exceeding one year and be fined in any sum not exceeding five hundred dollars.

1881 Wash. Code 181, Criminal Procedure, Offenses Against Public Policy, ch. 73, § 929.

Carrying Weapons | Washington | 1881

If any person carry upon his person any concealed weapon, he shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not more than one hundred dollars, or imprisoned in the county jail not more than thirty days[.]

1881 Wash. Sess. Laws 76, An Act to Confer a City Govt. on New Tacoma, ch. 6, § 34, pt. 15.

Carrying Weapons | Washington | 1881

[T]o regulate the transportation, storage and sale of gunpowder, giant powder, dynamite, nitro-glycerine, or other combustibles, and to provide or license magazines for the same, and to prevent by all possible and proper means, danger or risk of injury or damages by fire arising from carelessness, negligence or otherwise . . . to regulate and prohibit the carrying of deadly weapons in a concealed manner; to regulate and prohibit the use of guns, pistols and firearms, firecrackers, and detonation works of all descriptions[.]

William Lair Hill, Ballinger's Annotated Codes and Statutes of Washington, Showing All Statutes in Force, Including the Session Laws of 1897 Page 1956,

Image 731 (Vol. 2, 1897) available at The Making of Modern Law: Primary Sources.

Brandishing | Washington | 1881

Flourishing Dangerous Weapon, etc. Every person who shall in a manner likely to cause terror to the people passing, exhibit or flourish, in the streets of an incorporated city or unincorporated town, any dangerous weapon, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine in any sum not exceeding twenty-five dollars. Justices of the peace shall have exclusive original jurisdiction of all offenses arising under the last two preceding sections.

1883 Wash. Sess. Laws 302, An Act to Incorporate the City of Snohomish, ch. 6, § 29, pt. 15.

Carrying Weapons | Washington | 1883

[The city has power] to regulate and prohibit the carrying of deadly weapons in a concealed manner; to regulate and prohibit the use of guns, pistols, and fire-arms, fire crackers, bombs and detonating works of all descriptions

Albert R. Heilig, Ordinances of the City of Tacoma, Washington Page 333-334, Image 334-335 (1892) available at The Making of Modern Law: Primary Sources. Carrying Weapons | Washington | 1892

Ordinances of the City of Tacoma, An Ordinance Defining Disorderly Persons and Prescribing the Punishment for Disorderly Conduct Within the City of Tacoma. All persons (except police officers and other persons whose duty it is to execute process or warrants or make arrests) who shall carry upon his person any concealed weapon consisting of a revolver, pistol or other fire arms or any knife (other than an ordinary pocket knife) or any dirk or dagger, sling shot or metal knuckles, or any instrument by the use of which injury could be inflicted upon the person or property of any other person.

Rose M. Denny, *The Municipal Code of the City of Spokane, Washington. Comprising the Ordinances of the City (Excepting Ordinances Establishing Street Grades) Revised to October 22, 1896* Page 309-310, Image 315-316 (1896) available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | Washington | 1896

Ordinances of Spokane, An Ordinance to Punish the Carrying of Concealed Weapons within the City of Spokane, § 1.

If any person within the City of Spokane shall carry upon his person any concealed weapon, consisting of either a revolver, pistol or other fire-arms, or any knife (other than an ordinary pocket knife) or any dirk or dagger, sling-shot or metal knuckles, or any instrument by the use of which injury could be inflicted upon the person or property of any other person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars, nor more than one hundred dollars and costs of prosecution, and be imprisoned until such fine and costs are paid; provided, that this section shall not apply to police officers and other persons whose duty is to execute process or warrants or make arrests, or persons having a special written permit from the Superior Court to carry weapons

Richard Achilles Ballinger, *Ballinger's Annotated Codes and Statutes of Washington: Showing All Statutes in Force, Including the Session Laws of 1897* Page 1956-1957, Image 731-732 (Vol. 2, 1897) available at *The Making of Modern Law: Primary Sources*.

Carrying Weapons | Washington | 1897

Carrying Concealed Weapons, § 7084.

If any person shall carry upon his person any concealed weapon, consisting of either a revolver, pistol, or other fire-arms, or any knife, (other than an ordinary pocket knife), or any dirk or dagger, sling-shot, or metal knuckles, or any instrument by the use of which injury could be inflicted upon the person or property of any other person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars nor more than one hundred dollars, or imprisonment in the county jail not more than thirty days, or by both fine and imprisonment, in the discretion of the court: Provided, That this section shall not apply to police officers and other persons whose duty it is to execute process or warrants or make arrests.

WEST VIRGINIA

1870 W. Va. Code 692, Of Offenses against the Peace, ch. 148, § 7.

If any person, habitually, carry about his person, hid from common observation, any pistol, dirk, bowie knife, or weapon of the like kind, he shall be fined fifty dollars. The informers shall have one half of such fine.

1870 W. Va. Code 703, For Preventing the Commission of Crimes, ch. 153, § 8.

If any person go armed with a deadly or dangerous weapon, without reasonable cause to fear violence to his person, family, or property, he may be required to give a recognizance, with the right of appeal, as before provided, and like proceedings shall be had on such appeal.

1882 W. Va. Acts 421–22

Carrying Weapons | West Virginia | 1882

If a person carry about his person any revolver or other pistol, dirk, bowie knife, razor, slung shot, billy, metallic or other false knuckles, or any other dangerous or deadly weapon of like kind or character, he shall be guilty of a misdemeanor, and fined not less that twenty-five nor more than two hundred dollars, and may, at the discretion of the court, be confined in jail not less than one, nor more than twelve months; and if any person shall sell or furnish any such weapon as is hereinbefore mentioned to a person whom he knows, or has reason, from his appearance or otherwise, to believe to be under the age of twenty-one years, he shall be punished as hereinbefore provided; but nothing herein contained shall be so construed as to prevent any person from keeping or carrying about his dwelling house or premises any such revolver or other pistol, or from carrying the same from the place of purchase to his dwelling house, or from his dwelling house to any place where repairing is done, to have it repaired, and back again. And if upon the trial of an indictment for carrying any such pistol, dirk, razor or bowie knife, the defendant shall prove to the satisfaction of the jury that he is a quiet and peacable citizen, of good character and standing in the community in which he lives, and at the time he was found with such pistol, dirk, razor or bowie knife, as charged in the indictment, he had good cause to believe and did believe that he was in danger of death or great bodily harm at the hands of another person, and that he was, in good faith, carrying such weapon for self-defense and for no other purpose, the jury shall find him not guilty. But nothing in this section contained shall be construed as to prevent any officer charged with the execution of the laws of the state from carrying a revolver or other pistol, dirk or bowie knife.

1891 W. Va. Code 915, Of Offences Against the Peace, ch. 148, § 7.

Carrying Weapons | West Virginia | 1891

If a person carry about his person any revolver or other pistol, dirk, bowie knife, razor, slung shot, billy, metallic or other false knuckles, or any other dangerous or deadly weapon of like kind or character, he shall be guilty of a misdemeanor, and fined not less than twenty-five nor more than two hundred dollars, and may, at the discretion of the court, be confined in jail not less than one nor more than twelve months; and if any person shall sell or furnish any such weapon as is hereinbefore mentioned to a person whom he knows, or has reason, from his appearance or otherwise, to believe to be under the age of twenty-one years, he shall be punished as hereinbefore provided; but nothing herein contained shall be so construed as to prevent any person from keeping or carrying about his dwelling house or premises, any such revolver or other pistol, or from carrying the same from the place of purchase to his dwelling house, or from his dwelling house to any place where repairing is done, to have it repaired and back again. And if upon the trial of an indictment for carrying any such pistol, dirk, razor or bowie knife, the defendant shall prove to the satisfaction of the jury that he is a quiet and peaceable citizen, of good character and standing in the community in which he lives, and at the time he was found with such pistol, dirk, razor or bowie knife, as charged in the indictment he had good cause to believe and did believe that he was in danger of death or great bodily harm at the hands of another person, and that he was in good faith, carrying such weapon for self-defense and for no other purpose, the jury shall find him not guilty. But nothing in this section contained shall be so construed as to prevent any officer charged with the execution of the laws of the State, from carrying a revolver or other pistol, dirk or bowie knife.

1925 W.Va. Acts 25-30, 1st Extraordinary Sess., An Act to Amend and Re-Enact Section Seven . . . Relating to Offenses Against the Peace; Providing for the Granting and Revoking of Licenses and Permits Respecting the Use, Transportation and Possession of Weapons and Fire Arms. . . , ch. 3, § 7, pt. a. Carrying Weapons, Possession by, Use of, and Sales to Minors and Others Deemed Irresponsible, Registration and Taxation | West Virginia | 1925

§ 7 (a). If any person, without a state license therefor, carry about his person any revolver or other pistol, dirk, bowie-knife, slung shot, razor, billy, metallic or other false knuckles, or any other dangerous or deadly weapon of like kind or character, he shall be guilty of a misdemeanor and upon conviction thereof be confined in the county jail for a period of not less than six nor more than twelve months for the first offense; but upon conviction of the same person for the second offense in this state, he shall be guilty of a felony and be confined in the penitentiary not less than one or more than five years, and in either case fined not less than fifty nor more than two hundred dollars, in the discretion of the court. . . .

WISCONSIN

1858 Wis. Rev. Stat. 985, Of Proceedings to Prevent the Commission of Crime, ch. 175, § 18.

If any person shall go armed with a dirk, dagger, sword, pistol or pistols, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, he may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

1872 Wis. Sess. Laws 17, ch. 7, § 1, An Act to prohibit and prevent the carrying of concealed weapons.

SECTION 1. If any person shall go armed with a concealed dirk, dagger, sword, pistol, or pistols, revolver, slung-shot, brass knuckles, or other offensive and dangerous weapon, he shall, on conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the state prison for a term of not more than two years, or by imprisonment in the county jail of the proper county not more than twelve months, or by fine not exceeding five hundred dollars, together with the costs of prosecution, or by both said fine and costs and either of said imprisonments; and he may also be required to find sureties for keeping the peace and against the further violation of this act for a term not exceeding two years: provided, that so going armed shall not be deemed a violation of this act whenever it shall be made to appear that such person had reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, or to any person under his immediate care or custody, or entitled to his protection or assistance, or if it be made to appear that his possession of such weapon was for a temporary purpose, and with harmless intent.

1883 Wis. Sess. Laws 713, An Act to Revise, consolidate And Amend The Charter Of The City Of Oshkosh, The Act Incorporating The City, And The Several Acts Amendatory Thereof, chap. 6, § 3, pt. 56.

To regulate or prohibit the carrying or wearing by any person under his clothes or concealed about his person any pistol or colt, or slung shot, or cross knuckles or knuckles of lead, brass or other metal or bowie knife, dirk knife, or dirk or dagger, or any other dangerous or deadly weapon and to provide for the confiscation or sale of such weapon.

Charter and Ordinances of the City of Superior; Also Harbor Act, Municipal Court Act, Rules of the Common Council and Board of Education Page 390, Image 481 (1896) available at The Making of Modern Law: Primary Sources. 1896 Ordinances of the City of Superior, Carrying Concealed Weapons, § 18. It shall be unlawful for any person, other than a policeman or other officer authorized to maintain the peace or to serve process, to carry or wear any pistol, sling-shot, knuckles, bowie knife, dirk, dagger or any other dangerous weapon within the limits of the City of Superior, and any person convicted of a violation of this section shall be punished by a fine of not less than ten (10) dollars nor more than one hundred (100) dollars.

WYOMING

1884 Wyo. Sess. Laws, chap. 67, § 1, as codified in Wyo. Rev. Stat., Crimes (1887): Exhibiting deadly weapon in angry manner. § 983.

Whoever shall, in the presence of one or more persons, exhibit any kind of fire-arms, Bowie Knife, dirk, dagger, slung-shot or other deadly weapon, in a rude, angry or threatening manner not necessary to the defense of his person, family or property, shall be deemed guilty of misdemeanor, and on conviction thereof, shall be punished by a fine not less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail not exceeding six months

Wyo. Comp. Laws (1876) chap. 35 § 127, as codified in Wyo. Rev. Stat., Crimes (1887) Having possession of offensive weapons. § 1027.

If any person or persons have upon him any pistol, gun, knife, dirk, bludgeon or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined in any sum not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months.

A. McMicken, City Attorney, The Revised Ordinances of the City of Rawlins, Carbon County, Wyoming Page 131-132; Image 132-133 (1893) available at The Making of Modern Law: Primary Sources.

Carrying Weapons | Wyoming | 1893

Revised Ordinances of the City of Rawlins, Article VII, Carrying Firearms and Lethal Weapons, § 1.

It shall be unlawful for any person in said city to keep or bear upon the person any pistol, revolver, knife, slungshot, bludgeon or other lethal weapon, except the officers of the United States, of the State of Wyoming, of Carbon County and of the City of Rawlins. § 2. Any person convicted of a violation of the preceding section shall be fined not exceeding one hundred dollars, or imprisoned in the city

jail not exceeding thirty days. § 3. Persons not residing in said city shall be notified of this Ordinance by the police or any citizen, and after thirty minutes from the time of notification, shall be held liable to the penalties of this article, in case of its violation. § 4. The city marshal and policemen of the city shall arrest, without warrant, all persons found violating the provisions of this article, and are hereby authorized to take any such weapon from the person of the offender and to imprison the offender for trial, as in case of violations of other Ordinances of said city.

SOURCE: <https://firearmslaw.duke.edu/repository/search-the-repository/>

EXHIBIT F

TRAP GUN RESTRICTIONS¹

MARYLAND:

1910 Md. Laws 521, § 16c.

Sensitive Places and Times | Maryland | 1910

§ 16c. That it shall be unlawful for any person to hunt, pursue or kill any of the birds or animals named in Section 12, 13, 14 and 14A of this Act, or any insectivorous birds (excepting English sparrows), in Allegany County on Sunday, or on election days, and it shall be prima facie evidence of a violation of this Act if any person is found in the fields or woods with on a gun on Sunday or on election days, or to hunt or kill in any trap or destroy any of the birds . . .

MICHIGAN:

1875 Mich. Pub. Acts 136, An Act To Prevent The Setting Of Guns And Other Dangerous Devices, § 1.

Dangerous or Unusual Weapons | Michigan | 1875

[I]f any person shall set any spring or other gun, or any trap or device operating by the firing or explosion of gunpowder or any other explosive, and shall leave or permit the same to be left, except in the immediate presence of some competent person, he shall be deemed to have committed a misdemeanor; and the killing of any person by the firing of a gun or device so set shall be deemed to be manslaughter.

1931 Mich. Pub. Acts 671, The Michigan Penal Code, ch. 37, § 236.

Dangerous or Unusual Weapons | Michigan | 1931

Setting spring guns, etc.—Any person who shall set any spring or other gun, or any trap or device operating by the firing or explosion of gunpowder or any other explosive, and shall leave or permit the same to be left, except in the immediate presence of some competent person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than one year, or by a fine of not more than five hundred dollars, and the killing of any person by the firing of a gun or device so set shall be manslaughter.

¹ Further research may yield additional laws regulating trap guns.

MINNESOTA:

The Statutes at Large of the State of Minnesota: Comprising the General Statutes of 1866 as Amended by Subsequent Legislation to the Close of the Session of 1873: Together with All Laws of a General Nature in Force, March 7, A.D. 1873 with References to Judicial Decisions of the State of Minnesota, and of Other States Whose Statutes are Similar to Which are Prefixed the Constitution of the United States, the Organic Act, the Act Authorizing a State Government, and the Constitution of the State of Minnesota Page 993, Image 287 (Vol. 2, 1873) available at The Making of Modern Law: Primary Sources.

Dangerous or Unusual Weapons | Minnesota | 1873

Of Crimes and Their Punishment, Setting Spring Guns Unlawful, § 64-65.

§ 64. The setting of a so-called trap or spring gun, pistol, rifle, or other deadly weapon in this state is hereby prohibited and declared to be unlawful.

§ 65. Any person offending against the foregoing section shall be punished as follows: If no injury results therefrom to any person, the person so offending shall be punished by imprisonment in the county jail of the proper county for a period not less than six months, or by fine not exceeding five hundred dollars, or by both fine and imprisonment, at the discretion of the court. If death results to any human being from the discharge of a weapon so unlawfully set, the person so offending shall, upon conviction thereof, be punished by imprisonment in the state prison for a term not exceeding fifteen nor less than ten years. If any person is injured, but not fatally, by the discharge of any weapon so unlawfully set, the person so offending, upon conviction thereof, shall be punished by imprisonment in the state prison for a term not exceeding five years, in the discretion of the court.

MISSOURI:

“Shot by a Trap-Gun,” The South Bend Tribune, Feb. 11, 1891: “Chillicothe, Mo., Feb. 11 – In the circuit court George Dowell, a young farmer, was fined \$50 under an old law for setting a trap-gun. Dowell set the gun in his corn-crib to catch a thief, but his wife was the first person to visit the crib and on opening the door was shot dead.”²

² See <https://bit.ly/3CtZsfk>.

NEW HAMPSHIRE:

1915 N.H. Laws 180-81, An Act to Revise and Amend the Fish and Game Laws, ch. 133, pt. 2, § 18.

Dangerous or Unusual Weapons | New Hampshire | 1915

A person who violates a provision of this part is guilty of a misdemeanor and shall be fined as follows . . . [p]rovided, however, that a person violating the prohibition against setting a spring gun the object of which is to discharge a firearm, shall be fined not more than five hundred dollars nor less than fifty dollars, and shall be liable for twice the amount of the damage caused by his act, to be recovered by the person sustaining the injury or loss.

NEW JERSEY:

1763-1775 N.J. Laws 346, An Act for the Preservation of Deer and Other Game, and to Prevent Trespassing with Guns, ch. 539, § 10.

Dangerous or Unusual Weapons | New Jersey | 1771

And Whereas a most dangerous Method of setting Guns has too much prevailed in this Province, Be it Enacted by the Authority aforesaid, That if any Person or Persons within this Colony shall presume to set any loaded Gun in such Manner as that the same shall be intended to go off or discharge itself, or be discharged by any String, Rope, or other Contrivance, such Person or Persons shall forfeit and pay the Sum of Six Pounds; and on Non-payment thereof shall be committed to the common Gaol of the County for Six Months.

NEW YORK:

“The Man Trap,” The Buffalo Commercial, Nov. 1, 1870: “Coroner Flynn and the jury previously impaneled yesterday morning concluded the inquest on the body of George Tweedle, the burglar, who was shot by the trap-gun in the shop of Joseph J. Agostino A Springfield musket was fastened to the sill, inside, with the muzzle three inches from the shutter. The other end of the barrel rested on a block of wood, and one end of a string was tied to the hammer, passed over a small pulley, and the other end fastened to the shutter, so that, on opening the latter, the discharge would follow. . . . The jury retired, and in a short time returned with a verdict setting forth the cause of death to have been a musket shot wound from a weapon placed as a trap by Joseph D. Agostino. As there is a statute against the use of such infernal machines, which might cause loss of life to some innocent

person, the jury censured Agostino. He will not be released, however, but will be held under \$2,000 bail.”³

NORTH DAKOTA:

1891 N.D. Laws 193, An Act to Amend Sections 1 and 2 of Chapter 63 of the General Laws of 1883, ch. 70, § 1.

Dangerous or Unusual Weapons | North Dakota | 1891

That it shall be unlawful for any person or persons to kill, ensnare or trap in any form or manner, or by any device whatever, or for any purpose, any buffalo, elk, deer, antelope or mountain sheep between the 1st day of January and the 1st day of September of each and every year. And it shall be unlawful for any person or persons, at any time, to use or employ any hound or dogs of any kind in running or driving any buffalo, elk, deer, antelope or mountain sheep, or to set any gun or guns or gun trap to be discharged upon or by, any buffalo, elk, deer, antelope or mountain sheep as driven or pursued in any manner whatever.

The Revised Codes of the State of North Dakota 1895 Together with the Constitution of the United States and of the State of North Dakota with the Amendments Thereto Page 1259, Image 1293 (1895) available at The Making of Modern Law: Primary Sources.

Dangerous or Unusual Weapons | North Dakota | 1895

Setting Spring Gun, Trap or Device. Every person who sets any spring or other gun or trap or device operating by the firing or exploding of gunpowder or any other explosive, and leaves or permits the same to be left, except in the immediate presence of some competent person, shall be deemed to have committed a misdemeanor; and the killing of any person by the firing of a gun or other device so set shall be deemed to be manslaughter in the first degree.

OREGON:

1925 Or. Laws 42, An Act Prohibiting the Placing of Spring-Guns or Set-Guns; and Providing a Penalty Therefor, ch. 31, §§ 1-2.

Dangerous or Unusual Weapons | Oregon | 1925

§ 1. It shall be unlawful for any person to place or set any loaded spring-gun or set-gun, or any gun or firearm or other device of any kind designed for containing or firing explosives in any place whatsoever where the same may be fired, exploded or discharged by the contract of any person or animal with any string, wire, rod,

³ See <https://bit.ly/3yUSGNF>.

stick, spring or other contrivance affixed thereto or connected therewith or with the trigger thereof.

§ 2. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment; provided, however, that this act shall not apply to any loaded spring-gun or set-gun or firearm or any device placed for the purpose of destroying gophers, moles or other burrowing rodents.

RHODE ISLAND:

1890 R.I. Pub. Laws 17, An Act In Amendment Of And IN Addition to Chapter 94 Of The Public Statutes Of Birds, § 6;

1892 R.I. Pub. Laws 14, An Act In Amendment Of Chapter 92 Of The Public Statutes, Entitled “Of Firearms And Fireworks, § 6.

Hunting | Rhode Island | 1890, 1892

§ 6. Every person who shall at any time of year, take, kill or destroy any quail or partridge, by means of any trap, snare, net or spring, or who shall construct, erect, set, repair, maintain or tend any trap, snare, net, or spring for the purpose of taking, killing or destroying any quail or partridge, or who shall shoot any water fowl by means or by the use of any battery, swivel, punt or pivot gun, shall be fined for each offence, twenty dollars. Provided, however, that at such seasons as the taking, killing or destroying of such birds is prohibited by this chapter, any person may snare on his own land.

SOUTH CAROLINA:

Edmund William McGregor Mackey, The Revised Statutes of the State of South Carolina, Prepared by Commissioners under an Act of the General Assembly, Approved March 9, 1869, to Which is Prefixed the Constitution of the United States and the Constitution of South Carolina Page 404, Image 482 (1873) available at The Making of Modern Law: Primary Sources.

Hunting | South Carolina | 1855

Hunting, General Provisions, § 21.

That it shall not be lawful for any non-resident of this State to use a gun, set a trap or decoy, or to employ any other device for killing or taking deer, turkeys, ducks or other game, not to set a trap, seine, or net, or draw or use the same, or any other contrivance for taking or killing fish, within the territorial limits of this State.

1931 S.C. Acts 78, An Act Declaring it unlawful for any person, firm, or corporation to place a loaded trap gun, spring gun, or any like devise in any building, or in any place, and providing punishment for the violation thereof: § 1. Dangerous or Unusual Weapons | South Carolina | 1931

Be it enacted by the General Assembly of the State of South Carolina: That it shall be unlawful for any person, firm, or corporation to construct, set, or place a loaded trap gun, spring gun, or any like device in any manner in any building, or in any place within this State, and any violation to the provisions of this Act shall be deemed a misdemeanor and punished by fine of not less than One Hundred (\$100.00) Dollars and not more than Five Hundred (\$500.00) Dollars, or by imprisonment of not less than thirty (30) days nor more than one (1) year, or by both fine and imprisonment, in the discretion of the Court.

SOUTH DAKOTA:

1909 S.D. Sess. Laws 450, An Act for the Preservation, Propagation, Protection, Taking, Use and Transportation of Game and Fish and Establishing the Office of State Game Warden and Defining His Duties, ch. 240, §§ 21-22.

Hunting | South Dakota | 1909

§ 21. No person shall at any time catch, take or kill any of the birds or animals mentioned in this chapter in any other manner than by shooting them with a gun held to the shoulder of the person discharging the same.

§ 22. No person shall at any time set, lay or prepare or have in possession, any trap, snare, artificial light, net, bird line, swivel gun or set gun or any contrivance whatever for the purpose of catching, taking or killing any of the same animals or birds in this chapter mentioned, except that decoys and stationary blinds may be used in hunting wild geese, brant and ducks. The use of rifles in the hunting of said birds is prohibited.

UTAH:

An Act in relation to Crimes and Punishment, Ch. XXII, Title VII, Sec. 102, in Acts, Resolutions and Memorials Passed at the Several Annual Sessions of the Legislative Assembly of the Territory of Utah 59 (Henry McEwan 1866).

Sentence Enhancement for Use of Weapon | Utah | 1865

§ 102. If any person maliciously injure, deface or destroy any building or fixture attached thereto, or wilfully and maliciously injure, destroy or secrete any goods, chattels or valuable paper of another, or maliciously, prepare any dead fall, or dig any pit, or set any gun, or arrange any other trap to injure another's person or

property, he shall be imprisoned not more than one year, or fined not exceeding five hundred dollars, or both fined and imprisoned at the discretion of the court; and is liable to the party injured in a sum equal to three times the value of the property so destroyed or injured or damage sustained, in a civil action.

1901 Utah Laws 97-98, An Act Defining an Infernal Machine, and Prescribing Penalties for the Construction or Contrivance of the Same, or Having Such Machine in Possession, or Delivering Such Machine to Any Person . . . , ch. 96, §§ 1-3. Dangerous or Unusual Weapons | Utah | 1901

§ 1. Infernal machine defined. That an infernal machine is any box, package, contrivance or apparatus, containing or arranged with an explosive or acid or poisonous or inflammable substance, chemical, or compound, or knife, or loaded pistol or gun or other dangerous or harmful weapon or thing constructed, contrived or arranged so as to explode, ignite or throw forth its contents, or to strike with any of its parts, unexpectedly when moved, handled or open, or after the lapse of time, or under conditions, or in a manner calculated to endanger health, life, limb or property.

§ 2. That every person who delivers or causes to be delivered, to any express or railway company or other common carrier to any person any infernal machine, knowing it to be such, without informing such common carrier or person of the nature thereof, or sends the same through mail, or throws or places the same on or about the premises or property of another, or in any place where another may be injured thereby, in his person or property, is guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state prison for a term not exceeding twenty-five years.

§ 3. Penalty for constructing or having in possession – That every person who knowingly constructs or contrives any infernal machine, or with intent to injure another in his person or property, has any infernal machine in his possession, is guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state prison for a term not exceeding five years.

VERMONT:

1884 Vt. Acts & Resolves 74, An Act Relating To Traps, § 1
Dangerous or Unusual Weapons | Vermont | 1884

A person who sets a spring gun trap, or a trap whose operation is to discharge a gun or firearm at an animal or person stepping into such trap, shall be fined not less than fifty nor more than five hundred dollars, and shall be further liable to a person suffering damage to his own person or to his domestic animals by such traps, in a civil action, for twice the amount of such damage. If the person injured dies, his

personal representative may have the action, as provided in sections two thousand one hundred and thirty-eight and two thousand one hundred and thirty-nine of the Revised Laws.

1912 Vt. Acts and Resolves 261

Dangerous or Unusual Weapons | Vermont | 1912

. . . and provided further that a person violating the prohibition against setting a spring gun or other device the object of which is to discharge a firearm shall be fined not more than five hundred dollars nor less than fifty dollars, and shall also be liable for twice the amount of the damage caused by his act to be recovered by the person sustaining the injury or loss, in an action on this section.

WASHINGTON:

1909 Wash. Sess. Laws 973, An Act Relating to Crimes and Punishments and the Rights and Custody of Persons Accused or Convicted of Crime, and Repealing Certain Acts, ch. 249, ch. 7, §266, pts. 1-3.

Dangerous or Unusual Weapons | Washington | 1909

§ 266. Setting Spring Guns. Every person who shall set a so-called trap, spring pistol, rifle, or other deadly weapon, shall be punished as follows: 1. If no injury result therefrom to any human being, by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars, or by both. 2. If injuries not fatal result therefrom to any human being, by imprisonment in the state penitentiary for not more than twenty years. 3. If the death of a human being results therefrom, by imprisonment in the state penitentiary for not more than twenty years.

WISCONSIN:

David Taylor, *The Revised Statutes of the State of Wisconsin, as Altered and Amended by Subsequent Legislation, Together with the Unrepealed Statutes of a General Nature Passed from the Time of the Revision of 1858 to the Close of the Legislature of 1871, Arranged in the Same Manner as the Statutes of 1858, with References, Showing the Time of the Enactment of Each Section, and Also References to Judicial Decisions, in Relation to and Explanatory of the Statutes* Page 1964, Image 859 (Vol. 2, 1872) available at *The Making of Modern Law: Primary Sources*.

Dangerous or Unusual Weapons | Wisconsin | 1872

Offenses Cognizable Before Justices, Miscellaneous. § 53. Any person or persons in this State who shall hereafter set any gun, pistol or revolver, or any other firearms, for the purpose of killing deer or any other game, or for any other purpose, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding fifty dollars, and shall be imprisoned in the county jail of the proper county for a term of not less than twenty days.

1921 Wis. Sess. Laws 870, An Act . . . Relating to Wild Animals, ch. 530, § 1.
Hunting | Wisconsin | 1921

(29.22)(1) No person shall hunt game with any means other than the use of a gun held at arm's length and discharged from the shoulder; or place, spread or set any net, pitfall, spring gun, pivot gun, swivel gun, or other similar contrivance for the purpose of catching, or which might catch, take or ensnare game . . . and no person shall carry with him in any automobile any gun or rifle unless the same is unloaded, and knocked down or unloaded and inclosed within a carrying case[.]

conclusion.

THE MAN TRAP.

Inquest on the Body of Tweedle, the Burglar, Blown to Pieces by a Gun-Trap.

From the N. Y. Standard, Oct. 20th.

Coroner FLYNN and the jury previously impanelled yesterday morning concluded the inquest on the body of GEORGE TWEEDLE, the burglar, who was shot by the trap-gun in the shop of JOSEPH J. AGOSTINO, at No. 301 East Twenty-third street, on Wednesday morning. AGOSTINO and many of his friends were present, and some few of the intimates of the deceased also looked on with interest. The first and only witness examined was Officer OLIVER WINSHIP, of the Eighteenth Precinct. He testified that early that morning, before seven o'clock, he was informed that the body of a man was lying in the back-yard of AGOSTINO'S gun-shop. He went there and found the body as described. The hat, shown to the jury, he identified as the one found lying beside the body, having evidently been worn by the burglar. It was a round black felt hat, and its tattered and riddled appearance showed how terrible must have been the charge in the weapon. It was filled with little holes made by small shot, and the whole top had been blown open. The chisel and piece of stick were also shown. The officer found a hole in one of the shutters of the rear window, which looked as if an attempt had been made to pry it open. A Springfield musket was fastened to the sill, inside, with the muzzle three inches from the shutter. The other end of the barrel rested on a block of wood, and one end of a string was tied to the hammer, passed over a small pulley, and the other end fastened to the shutter, so that, on opening the latter, the discharge would follow.

Nothing further was elicited from this witness, and the case was here rested, there being no more testimony. The jury retired, and in a short time returned with a verdict setting forth the cause of death to have been a musket shot wound from a weapon placed as a trap by JOSEPH D. AGOSTINO. As there is a statute against the use of such infernal machines, which might cause loss of life to some innocent person, the jury censured AGOSTINO. He will not be released, however, but will be held under \$2,000 bail.

HOW JUDGE BAWLING CAUGHT

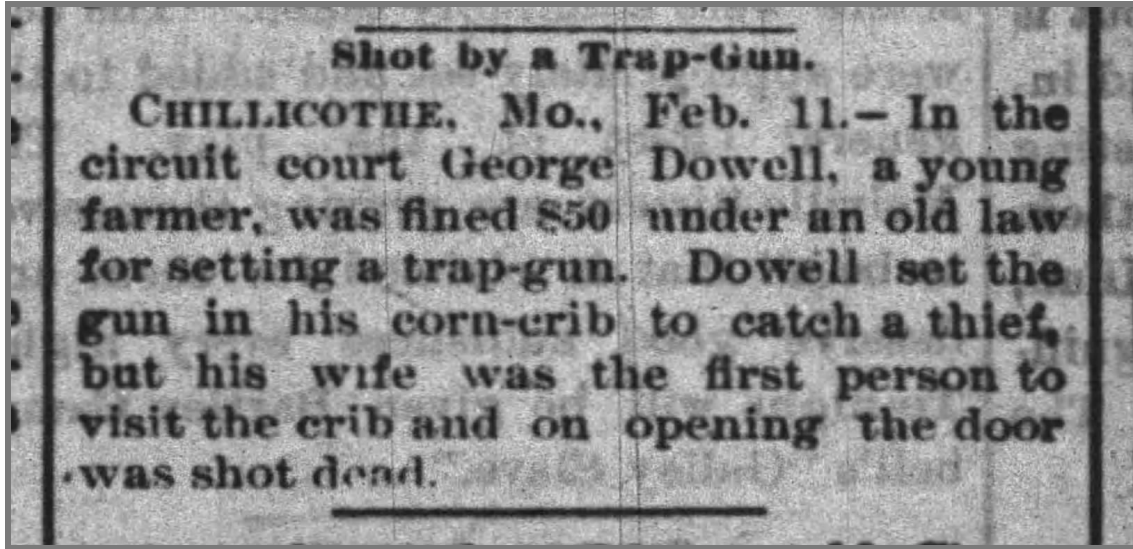


EXHIBIT H: BOWIE KNIFE LAWS BY TYPE

STATE	No Concealed Carry	No Carry	Greater Criminal Penalty	Tax/Punish for Sale	Tax Ownership	No Sale to Barred Groups*	No brandish
Alabama	1839,1841 1876,1879		1837	1837,1897	1837,1867	1876	
Alaska							
Arizona	1893,1901	1889					
Arkansas	1875	1881	1871				
California	1896					1896	1855,1858
Colorado	1862,1877	1881					
Connecticut							
Delaware							
District of Columbia	1871						
Florida				1838a			
Georgia	1837***,1873			1837***		1860	
Hawaii		1852,1913					
Idaho	1909	1879					
Illinois	1876,1881 1883					1881	
Indiana		1859					
Iowa	1882,1887 1900						
Kansas	1862,1863 1887					1883	
Kentucky						1859	
Louisiana	1855	1870					
Maine							
Maryland	1872,1884 1886,1890						
Massachusetts							
Michigan	1891						

EXHIBIT H (Spitzer)

Minnesota	1884						
Mississippi	1878,1896^		1837,1838		1841**		1840
Missouri	1871,1883 1890,1897	1917,1923					
Montana	1864		1879				
Nebraska	1890,1899	1872					
Nevada			1873				
New Hampshire							
New Jersey							
New Mexico	1859,1887						
New York		1885					
North Carolina	1879				1856,1858	1846b	
North Dakota							
Ohio	1859,1880						
Oklahoma	1890,1903	1890,1891					
Oregon							
Pennsylvania	1897						
Rhode Island	1893,1896 1908						
South Carolina						1923	
South Dakota							
Tennessee	1838,1863 1867	1869,1881 1893	1838,1856	1838,1867		1856,1867	
Texas		1871				1897	
Utah		1877					
Vermont							
Virginia	1838,1867, 1887		1838				
Washington							1854,1859 1869
West Virginia	1870	1882,1891 1925					
Wisconsin	1883						
Wyoming							1884

Source: <https://firearmslaw.duke.edu/repository/search-the-repository/> unless otherwise noted.

*Barred groups included Native Americans/Indians, African Americans/Enslaved, minors.

#Table excludes laws that punish carry/use of “knives” or “sharp or dangerous weapons” but do not mention Bowie knives by name.

** 1841 Miss. Chap. 1, p. 52. See <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/>

^ 1896 Miss. L. chap. 104, pp. 109-10. See <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/>

***<https://dlg.galileo.usg.edu/georgiabooks/pdfs/gb0439.pdf>, pp. 210-211.

a 1838 Fla. Laws ch. 24, p. 36 (Feb. 10, 1838). See <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/>

b 1846 N.C. L. chap. 42. See <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/>



Higher TEC.

At two-thirds the weight (and price) of an Uzi, the TEC-9 series clearly stands out among high capacity 9mm assault-type pistols.

Ounce for ounce they deliver more gutsy performance and reliability than any other gun on the market.

TEC-9's are built tough for rugged weather and terrain. And they're built comfortable with an ergonomically designed grip and frame. 36 rounds of firepower make them ideal for self-defense or recreation. Simple, two-step disassembly for easy cleaning makes them convenient.

In Standard or Mini version, blued or stainless steel, the TEC-9's

offer rugged, reliable, affordable technology.

Higher TEC.

See the TEC-9 Series at your dealer today.



Ask about our hot new TEC-22 Scorpion.

"... (Intratec) makes a gun that doesn't cost an arm and a leg, yet functions with impeccable reliability."

—Jerry Ahern,
Petersen's Handguns



12405 S.W. 130th St.
Miami, Florida 33186

ifunny.co



The XM-10 (AR-10) Semi Automatic .308 (7.62 NATO) Rifle

*This Famous Assault Rifle is Now Available in
a Semi Auto. Civilian Legal Form!*

The XM-10 incorporates the excellent design features of the AR-10/AR-15/M16 rifles with the high energy and long effective range of the 7.62 NATO round.

FEATURES:

- Gas Operated, Semi-Automatic
 - Brown fiberglass grip, stock, forend.
 - Integral grenade launcher
 - Threaded for Blank - Fire attachment 20 Rd. magazine.
 - Spring loaded dust cover
 - Quickpin, hinged breakdown design
 - Length-overall 41"
 - Weight w/empty Mag 9½ Pds.
 - Barrel length 21 3/8"
 - Sight adjustment 100-500 M.
- 'Straight-Back' recoil design allows for minimal muzzle climb. This means your sights come back on target faster than any other 308 assault rifle, making a faster second shot.
- No 'close-tolerance' dirt stoppage problems that have plagued the .223 AR-15 rifle. The XM-10 functions perfectly under adverse conditions.
- 'Natural Feel' and simple, practical design of the famous AR-15 allows for easy field stripping and cleaning.



The Semi-Auto XM-10 has a new manufacture lower receiver made from Aircraft grade aluminum. Thus weight is kept to a minimum without sacrificing strength, and allows an exact copy of the original. All other parts are original AR-10, made by Artillerie-Inrichtingen in Holland. Condition excellent. All external metal parts are refinished to match the original appearance. We can arrange for a manufacturer to convert an XM-10 to non-restricted full auto for qualified buyers. Supply is very limited - this rifle is destined to become an excellent investment.

PLUS AMMUNITION! We also distribute full line of military surplus ammunition at reasonable prices. A variety of assault rifles, magazines, and accessories are available. Our stock changes rapidly. Send \$3.00 (refundable on purchase) for an informative assault rifle brochure and complete price list.

paragon
SALES & SERVICES INC.
P.O. Box 2022 • Joliet, IL 60434 • (815) 725-9212

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai'i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

**DECLARATION OF JAMES E.
YURGEALITIS**

DECLARATION OF JAMES E. YURGEALITIS

I, James E. Yurgealitis, declare under penalty of perjury that the following is true and correct:

1. I have been engaged by the Department of the Attorney General, State of Hawaii to provide research and opinions in this case.
2. This declaration is based on my own personal knowledge, research, and experience, and if I am called to testify as a witness, I am able to testify competently to the truth of the matters discussed in this declaration.
3. I am being compensated at a rate of \$400 per hour for my work on this report as well as any additional work required. My travel + work rate is \$1600

per day.

I. PERSONAL BACKGROUND AND QUALIFICATIONS

4. I am currently self-employed as a Legal and Forensic Consultant, providing firearms related technical and public policy consulting, testing and training services to corporations, legal counsel, and the public sector. A detailed description of my work experience, education, and training are included in my Curriculum Vitae, which is attached as **Exhibit A** to this report. I have also included, as **Exhibit B**, a statement of my qualifications as an expert witness in the areas relevant to my experience.

5. I am a former Senior Special Agent/Program Manager for Forensic Services for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), U.S. Department of Justice, a position I held for nine years prior to my retirement. In that capacity, I was responsible for all ATF firearms and forensic firearms related training and research at the ATF National Laboratory Center (NLC) in Ammendale, MD.

6. Prior to my tenure at the ATF NLC, I was employed as a federal law enforcement officer, in various capacities, for approximately 16 years.

7. As detailed in **Exhibits A** and **B**, I have extensive training and experience with respect to firearms in general, as well as their history, manufacture, operation, and use.

II. GENERAL FIREARMS TERMINOLOGY AND OPERATION

8. Modern firearms operate utilizing the expanding gases generated by the rapidly burning gunpowder contained in modern ammunition. Gunpowder (or smokeless powder) is the propellant contained within metallic cartridges or shotshells utilized by modern firearms. A single cartridge or shotshell is also referred to as a “round” of ammunition. Once chambered or loaded in a modern firearm, and the trigger is pulled, the primer at the base of the cartridge or shotshell is struck by a firing mechanism. The primer contains a pressure sensitive explosive compound which ignites when struck. The ignition of the primer, in turn, ignites the main powder charge contained in the case of the cartridge or shotshell. The main powder charge ignites and burns rapidly in what is essentially a contained explosion.

9. This contained explosion generates gases at enormous pressures. The generated gases push the projectile out of the mouth of the cartridge, down the barrel of the firearm and out of the firearm through the muzzle.

10. More simply defined, a firearm is a weapon which utilizes the gas pressure generated by the burning gunpowder (explosive) in a modern ammunition cartridge to propel a projectile through the barrel and out of the firearm through the muzzle.

11. All modern Breech loading firearms, no matter the type, operate

according to a nine-step process known as the “Cycle of Fire”. A Breech Loading firearm is one in which the cartridge is loaded and fired from the breech (back) end of the barrel as opposed to a Muzzle Loader wherein the propellant / powder and bullet are loaded from the muzzle (front) end. The Association of Firearm and Toolmark Examiners (AFTE) is a professional organization for Forensic Firearm and Toolmark Examiners which, in conjunction with the U. S. Department of Justice (USDOJ), National Institute of Justice (NIJ), has created a training program for apprentice forensic firearm and toolmark examiners. As these steps will be referenced throughout this report they are included here for reference:

https://projects.nfstc.org/firearms/module08/fir_m08_t04.htm.

The AFTE training program has outlined the nine steps of the Cycle of Fire as:

1) Feeding:

Feeding refers to the process for insertion of cartridges into the chamber; the breech bolt pushes the cartridge into final position. Typically, the incoming round slides across the bolt or breech face during this caroming action. The feeding function can be manual or performed by various kinds of magazines and clips. For example, machine guns use belts of cartridges.

2) Chambering:

Chambering is the insertion of the cartridge into the chamber. If a cartridge of the incorrect length or diameter is used or if there is foreign matter in the chamber, chambering may be obstructed, causing a malfunction. Excess oil or grease in the chamber may cause overpressure, resulting in a ruptured cartridge case and potentially serious accidents.

3) Locking:

The breech bolt mechanism locks the cartridge into position in the barrel before firing. Most quality firearms are equipped with an interrupter mechanism that disconnects the trigger from the firing pin, thus making it impossible to fire until the mechanism is safely locked. This critical relationship is referred to as timing. (Blowback mechanisms involve a spring-held bolt; the mechanism is not technically locked, it is held together by spring tension and bolt inertia.)

4) Firing:

When the breech is fully locked, a pull on the trigger mechanically translates to the firing pin release. In the cocked position, the firing pin has a hammer behind it with a spring forcing it towards the primer, restrained only by a sear that is engaged by the trigger. A pull

on the trigger trips the sear from the engaging notch in the hammer.

The hammer, actuated by a cocked spring, drives the firing pin sharply against the percussion sensitive primer, which fires the cartridge.

5) Obturation:

Obturation occurs when powder gases under high pressure (e.g., two and one-half tons per square inch in the .30 06 Springfield cartridge) are sealed to prevent them from jetting between primer cup and cartridge case, cartridge case and primer wall, and projectile and bore. Cartridge cases must be sufficiently flexible to expand against the chamber wall and transmit the instantaneous powder pressure to the barrel metal that surrounds the chamber. When the chamber pressure has returned to zero, the cartridge case must also be flexible enough to release itself from the chamber wall (even though it is now pressure form fitted to the chamber). Likewise, the primer cup has been pressure held against the side of the cartridge case and depends upon the face of the breechblock for locked support during the interval of high chamber pressure. Obturation also occurs with the projectile; bullets are made sufficiently larger than the bore diameter to extrude into the rifling grooves and seal the gases.

6) Unlocking:

This is the reverse of the locking process and is frequently performed in conjunction with extraction.

7) Extraction:

Although cartridge cases do not commonly exceed their elastic limit during firing, they have a tendency to stick to the chamber after firing. After firing, cartridge cases are larger in diameter than before firing. If the fired cartridge case is intended for reloading, it must be full length resized in a reloading die. All cartridge cases are designed with a rim or groove (cannelure) at the base so that an extractor claw can grasp this edge in order to achieve extraction.

8) Ejection:

In the final stages of extraction, the cartridge case encounters a projection that is usually at right angles to the exit portal of the breech. Rotating on the fulcrum of the extractor the case base is contacted on the opposite side by the ejector, which flips the case out of the actuating mechanism.

9) Cocking:

The hammer spring is usually cocked when the bolt of a rifle, pistol, or repeater shotgun is retracted. An exception to this is the M 1917

Enfield Rifle, which cocks upon forward motion of the bolt. Exposed hammer may be cocked by manual retraction, using the thumb. The Walther series of pistols provides for manual cocking or trigger pull cocking (double action), as do most open hammer revolvers.

12. Additional definitions often used when classifying firearms (in general)

are:

Semiautomatic, Full Automatic and Select Fire:

a. Semiautomatic:

Refers to a repeating/ self-loading firearm that fires one shot for each pull of the trigger until the ammunition supply is exhausted. The energy of the fired cartridge is utilized to cycle the mechanism of the firearm to feed and chamber the next shot.

b. Full / Fully Automatic:

Refers to a firearm that will continuously fire successive shots when the trigger is pulled, and will only stop when the trigger is released or the supply of ammunition is exhausted. Commonly referred to as a machine gun.

c. Select Fire:

A firearm capable of switching between and functioning in either fully automatic or semiautomatic fire mode. Alternatively, some firearms

can fire in “burst mode” meaning automatically with a mechanical limitation on the number of shots.

13. Additional definitions relevant to any discussion regarding firearms in general, and this declaration in particular, are Rifling, Caliber and Gauge.

a. Rifling:

Rifling refers to a series of grooves cut or impressed inside the barrel in a spiral pattern. The “high” portions of these patterns as called “Lands”. The “lower” portion of this pattern are called “Grooves”. When a projectile (or bullet) is fired in a “rifled” firearm, it comes into contact with the lands as it leaves the chamber and begins to travel down the barrel. Because the lands are oriented in a spiral pattern, the rifling imparts a spin to the projectile which improves stability and accuracy.

b. Caliber:

Caliber is a dimensional measurement of the inside (or bore) of a rifled barrel. In the United States, caliber is traditionally expressed in fractions of an inch. For example, a .22 caliber firearm is designed to chamber and fire a projectile which measures .22 inches (or slightly less than a quarter of an inch). A .50 caliber firearm chambers and fires a projectile which is approximately a half inch in diameter.

In Europe, and the majority of other countries utilizing the metric system, caliber has historically been expressed in millimeters (mm). Therefore, a 9mm firearm is designed to chamber and fire a projectile with a diameter of 9mm. European caliber designations may also include measurement of the length of the cartridge case (9x19mm, 7.62x39mm, *etc.*).

A number of firearm calibers widely manufactured have two separate caliber designations, one in inch measurements and one in metric, which are equivalent and interchangeable. For example, .380 caliber ammunition in the US is referred to as 9x17mm caliber in Europe.

It is important to note for the purposes of this declaration that the caliber designation of any given ammunition cartridge usually refers only to the diameter of the projectile (bullet) and not the relative “power” of the cartridge itself (in terms of muzzle energy, effective range and muzzle velocity). For example, there is an important distinction between cartridges commonly referred to as .22 caliber and cartridges commonly referred to as .223 caliber.

.22 caliber ammunition is a popular and relatively low power cartridge developed in the 1880s. It is also known as “.22 rimfire” as

the primer mixture in the cartridge is seated in the rim of the cartridge and not contained in a separate primer cup in the cartridge base. It is commonly used for target shooting as well as hunting small game and can be fired from both handguns and rifles chambered in that caliber. Bullet weights for .22 caliber projectiles / bullets are typically between 30-60 grains (0.08 to 0.13 ounces). Muzzle velocities are usually in the 1100-1300 feet per second (fps) range.

.223 caliber ammunition by comparison is a high velocity cartridge developed in the 1950s in part for use in the original AR-15 and M-16 rifles. It is a “centerfire cartridge.” Although the diameter of the projectile / bullet is only slightly greater (approximately the width of a human hair) than the .22 caliber cartridge mentioned previously, it is a vastly more powerful cartridge in terms of muzzle velocity and range. This caliber ammunition is also somewhat interchangeable with 5.56mm ammunition. Here is a side-by-side comparison of .223 (left) and .22 caliber cartridges (right) with a quarter for size reference:



Common bullet weights for .223 / 5.56mm caliber projectiles are 50 to 62 grains + or- (0.11 to 0.14 ounces)—heavier than .22 caliber projectiles. And common muzzle velocities are approximately 3,200 to 3,500 feet per second—about three times as fast as .22 caliber projectiles. A heavier bullet and increased velocity equate to more of the cartridge’s energy being transferred to the target. The National Rifle Association (NRA) American Rifleman Magazine tested the U.S. Army’s new .223 caliber cartridge (M855A1) in 2014 and the results are published here:

<https://www.americanrifleman.org/content/testing-the-army-s-m855a1-standard-ball-cartridge/>

c. Gauge:

Gauge is a dimensional measurement which is traditionally used to denote the bore of a non-rifled or “smoothbore” firearm (i.e., a

Shotgun). Shotguns were initially designed to fire a mass of round shot as opposed to one solid projectile and therefore, a caliber designation is not readily applicable. Gauge refers to the number of lead spheres which will fit inside the bore and equal one pound. For example, in a 12-gauge shotgun you can fit 12 spheres of lead, which are approximately 18.52mm or .73 inches in diameter, the total weight of which will equal one pound. If the diameter of the spheres is increased, it will require less of them to equal one pound. Therefore, the smaller the “gauge,” the larger the dimension of the bore. The exception to this measurement system is the .410 gauge shotgun which is actually a caliber designation.

III. TYPES OF MODERN FIREARMS

14. Modern firearms as currently manufactured for civilian ownership fall into two general types: handguns and long guns (or shoulder weapons).

Handguns:

15. Handguns are generally defined as a firearm having a short stock (grip), and are designed to be held, and fired, with one hand. The term “Handgun” defines two distinct types of modern firearms, the revolver and the pistol.

16. A revolver is a handgun designed and manufactured with a revolving cylinder to contain, chamber and feed multiple rounds of ammunition. In a modern

double action revolver, pulling the trigger rotates the cylinder bringing an unfired cartridge of ammunition in line with the barrel and firing pin. Pulling the trigger also cocks the hammer and then releases it either directly (or indirectly via a firing pin) to strike the primer of the cartridge, initiating the firing sequence as stated previously. In this type of revolver, the trigger must again be pulled to rotate the cylinder in order to fire another cartridge. When all cartridges have been fired, the cylinder is unlocked from the frame and swings out to facilitate removal of expended cartridge casings and insertion of unfired cartridges. The cylinder is then closed and relocked within the frame and the handgun is again ready to fire when the trigger is pulled.

This animation details the overall operation and key components:

https://www.youtube.com/watch?v=TXliIJ_66FQ

17. A pistol is a handgun designed and manufactured with the firing chamber as an integral part of the barrel and utilizes a “box” magazine to contain and feed multiple rounds of ammunition. In this type of handgun, generally, the box magazine is inserted into the firearm, the slide or bolt is pulled back and released which springs forward and feeds a cartridge into the chamber. When the trigger is pulled a firing pin or striker is released which impacts the primer of the cartridge and initiates the firing sequence of the ammunition. In most pistols, a portion of the recoil or gas pressure generated by firing the cartridge is utilized to

move the slide rearward, extract and eject the expended cartridge case and chamber another round from the magazine. This sequence can be repeated by pulling the trigger once for each shot. The pistol can then be reloaded by removing the empty magazine and inserting a loaded magazine (or refilling a permanently affixed magazine if the pistol is so configured). The overall operation of a Colt 1911 .45 Caliber pistol is illustrated in this animation:

<https://www.youtube.com/watch?v=EjQrhDKDWFk&t=12s>

A Single Shot Pistol refers to a handgun which has no internal magazine capacity and requires the operator to manually reload the firearm after each shot fired.

Long Guns/ Shoulder Weapons:

Long Guns are generally of two distinct types: rifles and shotguns.

A rifle is a firearm which is designed and intended to be fired from the shoulder. It fires a single shot through a rifled bore for each pull of the trigger.¹ A shotgun is a firearm which is also designed and intended to be fired from the shoulder. It fires either a number of ball shot (commonly termed “buckshot” or “birdshot”) or a single projectile (commonly termed a “slug”) through a smooth (non-rifled) bore for each pull of the trigger.

¹ Machine guns (any firearm with the capacity to fire more than one shot with each pull of the trigger) are defined separately under federal law.

a. Rifles:

Historically speaking, rifles are the oldest type of firearms in existence. In terms of “types” of rifle, there are numerous variations. All of these variations, generally speaking, are defined and distinguished by the way they are loaded and reloaded. For example, single shot rifles fire one shot for each pull of the trigger. They have no internal or external magazine capacity and must be reloaded with a new unfired cartridge by hand for each shot. Many of these have a hinged or “break open” receiver to facilitate loading and unloading.

A Pump Action Rifle requires the operator to manually manipulate a forearm piece which is traditionally found underneath the barrel. After firing, the forearm is pulled backward which unlocks the bolt, extracts and ejects the fired cartridge case. Pushing the slide forward feeds an unfired cartridge from the magazine, cocks the firearm mechanism and locks the bolt for a successive shot. Pump action rifles have been manufactured with both tubular and detachable box magazines. Here is a relevant animation:

<https://www.youtube.com/watch?v=jyyQqXGUSx8>

Bolt Action Rifles require the operator to manually manipulate the bolt of the rifle. After firing, the bolt is first unlocked from the

chamber and then moved rearward. This action also extracts and ejects the expended cartridge case. The bolt is then moved forward which feeds an unfired cartridge from the magazine into the chamber. Once the bolt is then again locked by the operator, it is ready to fire. Bolt action rifles usually have an internal fixed magazine or tubular magazine which will facilitate reloading via manipulation of the bolt until that capacity is exhausted. Bolt-action rifles were generally the choice of military forces, hunters and sportsmen through the end of World War II. Here is a relevant animation:

<https://www.youtube.com/watch?v=u9Luu7R4WVw>

A lever action rifle is similar to the bolt action rifle in that the operator is required to manipulate the mechanism, or “action”, of the firearm. A lever at the bottom of the receiver of the rifle is manipulated in an up and down motion in order to unlock the bolt and move it rearward, extract and eject the expended cartridge case, feed an unfired cartridge into the chamber and lock it. The operator’s action is required for each shot fired through the rifle. Generally speaking, lever action rifles are manufactured with tubular magazines which will vary in capacity depending on the caliber of the firearm. Here is a relevant animation:

<https://www.youtube.com/watch?v=58LbxVd4buo>.

A semiautomatic rifle utilizes the energy generated by the firing of the cartridge to power the cycle of fire. This is accomplished by siphoning off a portion of the gases generated by firing to operate the mechanism or by utilizing the recoil generated by firing much as in a semiautomatic pistol as described previously.

Once loaded, the operation of this cycle of fire is not dependent on the operator to effect any portion of the process other than to pull the trigger. Semiautomatic rifles are, and have been previously, manufactured with both fixed internal magazines and a capacity to accept detachable external magazines. As such, this type of rifle is capable of firing with each pull of the trigger until the supply of ammunition is exhausted. As stated previously, the majority of military firearms until the end of World War II were bolt action. The exception to this rule was the United States entering the war with the semiautomatic M1 (Garand) .30-06 caliber rifle as standard issue. The Garand had a fixed internal magazine with an eight round capacity. As discussed below, since the end of World War II, virtually every military organization across the globe has adopted a form of semiautomatic or select fire rifle, from among one of a series of

designs. Here is a relevant animation:

<https://www.youtube.com/watch?v=jlCV6yellTI>

b. Shotguns:

Modern shotguns, as stated previously in regard to rifles, are generally classified and characterized by their operating system (i.e., the manner in which they function, are loaded and reloaded).

Shotguns with multiple barrels are defined by placement or orientation of their barrels.

Single Shot Shotguns function similarly to the single shot rifle. They may have a hinged receiver which allows the operator to open the action at the chamber area to facilitate loading and unloading of the firearm. There are also single shot models that are loaded and unloaded through a bolt action mechanism and have no additional magazine capacity.

Bolt Action shotguns are manufactured, as stated above, as single shot, or with internal or detachable magazines to facilitate easier and faster reloading. They function in the same way as a bolt action rifle and require manual manipulation of the bolt by the operator to unload and reload.

Lever Action Shotguns again function in the same fashion as a

similarly designed rifle. Manual manipulation of the lever is required for successive shots.

Pump Action Shotguns have the same general operating system as a similarly designed rifle. The “action” of the shotgun must be worked forward and back by the operator to unlock the bolt, extract and eject the expended shotgun shell, reload and relock the bolt for firing.

Semiautomatic Shotguns, as with their rifle caliber counterparts, utilize energy (either recoil or gas pressure) generated by firing ammunition to “power” the operating system of the firearm. These are manufactured with a number of different magazines, both internal and fixed, as well as external and detachable. They are capable of firing a single shot with each pull of the trigger until the supply of ammunition in the magazine is exhausted.

Break Open, Double Barrel and “Tip Up” Shotguns have a hinged receiver which facilitates access to the rear of the chamber for unloading and reloading. They are manufactured in single shot and double barrel variations. Double barrel variations are further delineated by the placement of their barrels. Side by Side Shotguns have two barrels situated next to one another in a horizontal

arrangement. Over and Under Shotguns have two barrels superimposed upon one another in a vertical plane. The mechanisms in each of these allow staggered firing of each of the two barrels with a separate pull of the trigger. When the hinged action is opened, the expended shotgun shell hulls can be manually extracted although more complex designs with auto ejectors perform that function when “opened” without action by the operator. Here is a relevant animation:

<https://www.youtube.com/watch?v=XXOYekeYIPo>

18. Other Types of Firearms: There are additional types and classifications of firearms not discussed at length here for brevity and because they are less relevant to my opinions. An example of this type of firearm is a “Drilling” which consists of a shotgun and rifle mounted to the same receiver. Other types of firearms such as smoothbore revolvers, Short Barreled Shotguns, Short Barreled Rifles and Machineguns are regulated by ATF under the auspices of the National Firearms Act (NFA). Manufacture, transfer and ownership of these “NFA Firearms” is subject to more stringent regulations that include registration in a Federal Database.

IV. DEVELOPMENT OF ASSAULT WEAPONS

19. In recent years there has been an increase in the availability in the United States of semiautomatic rifles, pistols and shotguns with features initially

designed (or patterned after those designed) for a military purpose. As the connection between these weapons and weapons designed for military use is intrinsically relevant to this case, it is important to discuss the history of the development and evolution of firearms with these features. A discussion regarding the development and capabilities of handguns based on AR & AK type rifle receivers is also relevant to this case.

20. It is generally recognized that the first “Assault Rifle” or “Assault Weapon” is the German StG 44 (Sturmgewehr Model 1944) which appeared in production form late in WWII. Noted firearms historian and expert Ian Hogg referred to it as “The Father of all today’s assault rifles.”²



Image Source: <https://www.recoilweb.com/sturmgewehr-the-first-assault-rifle-100907.html>

² “Military Small Arms of the 20th Century,” Edition” Hogg Ian V. and Weeks, John S., Krause Publications, Iola, WI, 2000, pp. 243.

Earlier pre-production variants included the MP 42 and MP 43 (Machinenpistol 1942 and 1943 respectively). The Germans termed the rifle “Sturmgewehr,” literally “Storm Rifle,” and a number of the features included utilization of a portion of the gas generated by the burning cartridge propellant to reload and operate the rifle, extensive use of steel stampings in its construction, a detachable magazine, a separate pistol style grip (not integrated with the shoulder stock), a bayonet mounting lug and a threaded barrel to facilitate the attachment of a grenade launcher. It fired a cartridge that was smaller dimensionally and less “powerful” (in terms of muzzle velocity and foot pounds of energy) than the standard 8mm Mauser cartridge in use by the German Army in their standard issue bolt action Mauser K98 rifles.

It is important to note that the features designed into the German StG 44 were intended to increase potential ease of carry & lethality in battle. In general, it is widely accepted that, in the design of military small arms, ‘form follows function’ and innovations primarily serve to increase the firepower and lethality of the individual combatant.

21. Following the end of the war, captured StG 44s were analyzed by the Allies, as well as the Soviets, and although there was reluctance to move to a smaller caliber cartridge a number of the features of the StG 44 found favor in the design of successive European, American and Eastern Bloc military rifles.

Noted firearm expert and historian Jim Supica wrote in his forward to the book “Guns”³

“Most military establishments hesitated to ‘downsize’ the range and power of their primary rifles in the early Cold War years. The semi-auto detachable magazine concept was an obvious success and there was something to be said for full auto capability.”⁴

He further writes:

“However the assault rifle concept wouldn’t go away. The Soviet Union accepted the lower power round idea in its fixed magazine semi-auto chambered for an intermediate power 7.62 x 39 mm round in 1945, the SKS, which saw wide distribution and production in Soviet client states.”⁵

Two years later, in 1947, the USSR followed the SKS with what Supica terms: “The quintessential assault rifle - the Kalashnikov designed AK-47.”⁶

22. The design of the AK-47 carried forward a number of the features introduced on the German StG 44. These features include a gas powered operating system, use of steel stampings in its construction, a separate pistol grip, separate shoulder stock, a detachable magazine, a bayonet lug and provision for attachment of a grenade launcher. Due to the separate stock and pistol grip, the AK, much like the StG 44, also utilized a barrel shroud at the forward third of the rifle. Some variations of the early AK-47s (AKM) also featured a compensator at the muzzle

³ Supica, *Guns* (TAJ Books, 2006), pages 26-28.

⁴ *Id.*, p.28.

⁵ *Id.*, p.28.

⁶ *Id.*, p.28

that deflected gas upward and to the right to compensate for the rifle's tendency to kick up and to the right with every shot.

23. In the 1950s numerous Nations sought to replace WWI and WWII vintage bolt action and semiautomatic rifles with these newer and more effective designs. With the birth of the North Atlantic Treaty Organization (NATO), however, utilization of Soviet Bloc AK or SKS Assault Rifles was not possible. Accordingly, a number of firearms manufacturers outside the Soviet sphere of influence developed military rifles which carried forward these same features to one extent or another. Fabrique Nationale (FN) of Herstal, Belgium and Heckler Koch (HK) of Oberndorf, Germany are two noteworthy examples.

24. FN developed the FN-FAL (Fusil Automatique Leger) and HK the G3 which found a ready market amongst nations that did not favor the Soviet AK type designs. Both incorporated features which, like the AK, were derived directly from the StG 44. Their designs featured some parts made from metal stampings as opposed to heavier and more expensive machined steel pieces. A separate pistol grip, shoulder stock, detachable magazine and barrel shroud followed the basic design of the StG 44. A flash hider and / or muzzle brake have appeared in production variations of both rifles. These rifles were destined from inception to become widely exported as the domestic market in both countries was relatively limited. The FN- FAL and G3 have been in production since the 1950s and both

FN and HK have licensed production to numerous countries in South America, Africa and the Middle East.

25. By the late 1950s through the late 1960s most nations who could afford to do so had replaced early 20th century rifle designs with these newer and more effective rifles for their military forces.

26. In the United States, progress in this arena moved at a significantly slower pace. The prevailing wisdom here was to stay away from lighter, smaller rifle calibers and cartridges as the .30-06 cartridge used in the M-1 Garand Rifle during WWII had proven to be more than successful. Their initial answer to the burgeoning move towards assault rifles was a variation of the basic M-1 Garand operating system, the T44, or M-14. Outwardly, the M-14 retained a full length wood stock as did the Garand, however it featured a detachable magazine, select fire (both semiautomatic and full automatic) capability as well as a flash hider. It competed directly against the FN-FAL (designated T88) in U.S. Army trials and was selected in 1957.

27. In the mid 1950s ArmaLite Corporation's chief engineer, Eugene Stoner, developed a number of lightweight assault rifle designs which resulted in the AR-10 in .308 caliber. Its design closely paralleled what was now becoming standard assault rifle design, i.e., light weight (aluminum forged receivers as opposed to machined steel), separate pistol grip and shoulder stock, foregrip /

barrel shroud, detachable magazine, and numerous flash hider / muzzle brake variations. ArmaLite continued to refine the basic design of the AR-10 which resulted in the AR-15. The AR-15 was designed to chamber and fire the 5.56 x 45mm cartridge (somewhat interchangeable with .223 Remington caliber).

28. In 1961, the Department of Defense purchased a quantity of AR-15 rifles from Colt for evaluation. A number of these were subsequently shipped to U.S. Army advisors in Vietnam to test their suitability for issue to South Vietnamese Army forces. Following the field evaluation, the Department of Defense Advanced Research Projects Agency prepared a report (AD-343778, dated August 20, 1962) summarizing the results.⁷ Amongst the data compiled via surveys of the US Army Advisors are a number of comments regarding actual use in the field and the resulting lethal injuries.

9. (C) Remarks. Unit Commanders' and Advisors' remarks concerning the value of the AR-15 to Vietnamese Units and its worth as a combat weapon in the war in South Vietnam as opposed to existing weapons were also requested. Generally, the comments were extremely favorable to the AR-15. All of the comments received are presented below in their entirety and in the form in which they were received.

(1) (C) "On 160900 June 62, one platoon from the 340 Ranger Company was on an operation vic. YT260750 and contacted 3 armed VC in heavily forested jungle. Two VC had carbines, grenades, mines, and one had a

4

ANNEX "A"

CONFIDENTIAL

⁷Advanced Research Projects Agency, Office of the Secretary of Defense, Field Test Report, AR15 ArmaLite Rifle, at 24 (July 31, 1962), available at <https://apps.dtic.mil/sti/pdfs/AD0343778.pdf>.

CONFIDENTIAL

SMG. At a distance of approximately 15 meters, one Ranger fired an AR-15 full automatic hitting one VC with 3 rounds with the first burst. One round in the head-took it completely off. Another in the right arm, took it completely off, too. One round hit him in the right side, causing a hole about five inches in diameter. It cannot be determined which round killed the VC but it can be assumed that any one of the three would have caused death. The other 2 VC ran, leaving the dead VC with 1 carbine, 1 grenade and 2 mines. " (Rangers)

(2.) (C) "On 9 June a Ranger Platoon from the 40th Inf Regt was given the mission of ambushing an estimated VC Company. The details are as follows:

- a. Number of VC killed: 5
- b. Number of AR-15's employed: 5
- c. Range of engagement: 30-100 meters
- d. Type wounds:
 1. Back wound, which caused the thoracic cavity to explode.
 2. Stomach wound, which caused the abdominal cavity to explode.
 3. Buttock wound, which destroyed all tissue of both buttocks.
 4. Chest wound from right to left, destroyed the thoracic cavity.
 5. Heel wound, the projectile entered the bottom of the right foot causing the leg to split from the foot to the hip.

These deaths were inflicted by the AR-15 and all were instantaneous except the buttock wound. He lived approximately five minutes.

29. Despite some initial reliability problems due to improper maintenance by operators the rifle was adopted as standard issue by the U.S. Army in the mid 1960s. The production of the rifle had been licensed to Colt and initially the model designation was, as produced, AR-15.



Image Source: “The Black Rifle”, P.95. (see bibliography)

30. Shortly thereafter a series of engineering changes were introduced by Colt and the standard US military designation was changed to M-16. When initially deployed as standard issue rifle for U.S. Military Forces the AR-15 / M-16 platform was maligned as unreliable and prone to jamming. This was due, in part, to inadequate maintenance by the operators themselves. Once the problems were addressed and rectified the rifle proved to be as reliable and accurate as the AK-type rifles deployed by the opposing forces in the Vietnam Conflict.

31. In the ensuing 50+ years both the military and civilian versions of the M16 / AR-15 platform have undergone numerous modifications both cosmetic and mechanical. However, the basic configuration, appearance, construction and operation of the internal gas operating system (as designed) has remained unchanged since its initial inception and acceptance as a military weapon. However, Colt continued to promote the similarity between the M-16 rifle

produced for the U.S. Military and the civilian semiautomatic variant.

32. The expiration of Colt's patents in the late 1970s naturally spawned competition in the marketplace. Throughout the design's lifespan, many of the internal fire control components have remained unchanged and their specifications standardized industry wide. There are multiple internal parts that are completely interchangeable between military M16s manufactured in the 1960s by Colt and a AR-15 type rifle produced today by any one of hundreds of U.S. manufacturers who produce either receivers or internal operating parts. For example, a Bolt Carrier manufactured in 1967 by Colt will fit, and function as designed, in an AR copy manufactured in 2017. Additionally, the overall configuration of "copycat" AR rifles remains identical to the original production design of the early 1960s. The overall design configuration (two piece hinged receiver, shoulder stock in line with the chamber and barrel, placement of the magazine, external switches and other features) are identical or nearly so.

33. As stated previously, due to their modular construction AR-type rifles are easily customized to suit the owner's personal preference. This also applies to pistols which are based on AR- & AK- type rifle receivers. The rifle receiver itself is a hinged two-piece unit and the "upper receiver" and "lower receiver" can be swapped out for other similar pieces with relative ease. The design also facilitates replacement of internal fire control components and assemblies. The following

video illustrates this:

<https://www.youtube.com/watch?v=F00FEJZbrb0>

34. It is important to note the respective characteristics of the 5.56mm / .223 caliber cartridge that influenced the U.S. Military's decision to switch over from the 7.62 x 51mm / .308 caliber round used in the preceding model M-14 rifles. Dimensionally, the 7.62 x 51mm cartridge is 71mm (2.8 inches) long overall and weighs approximately 0.9 ounces. The 5.56mm cartridge is 57mm (2.24 inches) long overall and weighs approximately 0.4 ounces.



Image Source: <https://www.intherabbithole.com/e176/>

Five pounds (80 oz.) of 7.62 ammunition would consist of 89 cartridges. Five pounds of 5.56 would consist of 200 cartridges. The lighter weight and smaller dimensions of a 5.56 / .223 caliber cartridge would allow more ammunition to be carried by an individual combatant for an equivalent weight. The shorter overall dimensions of the 5.56 also commensurately allowed for smaller

detachable magazines and / or larger capacity magazines for the same size. A 30-round magazine for a 5.56mm AR-15 rifle is smaller than a 20 round magazine for a 7.62mm M-14 rifle.

35. Performance in terms of muzzle velocity was also a consideration. The 7.62x51mm cartridge has a muzzle velocity of approximately 3200 feet per second (fps). The 5.56 cartridge has approximately the same velocity (for reference a 9mm pistol cartridge has a muzzle velocity of approximately 1100 fps). 5.56mm bullets, upon contacting tissue will “yaw” (begin to rotate on its axis) which contributes to the creation of both temporary and permanent large wound cavities. Handgun bullets, because they are heavier and travelling at a lower velocity, do not typically yaw upon contact with tissue and do not create as large of a wound cavity nor commensurate destruction of tissue. The yaw movement of a 5.56/.223 bullet can also cause it to fragment upon striking bone which contributes to additional tissue damage not immediately adjacent to the cavity itself.

36. Noted wound ballistics expert Vincent DiMaio in “Gunshot Wounds” writes,

“As the bullet enters, the body, there is ‘tail splash’ or backward hurling of injured tissue. This material may be ejected from the entrance. The bullet passes through the target, creating a large temporary cavity whose maximum diameter is up to 11-12.5 times the diameter of the projectile. The maximum diameter of the cavity occurs at the point at which the maximum rate of loss of kinetic energy occurs. This occurs at the point where the bullet is at maximum yaw, i.e., turned sideways (at a 90-degree angle to the path) and / or when it fragments. If fragmentation does not occur and the path is long

enough, the yawing continues until the bullet rotates 180 degrees and ends up in a base-forward position. The bullet will continue traveling base first with little or no yaw as this position puts the center of mass forward.⁸

The temporary cavity will undulate for 5-10 msec before coming to rest as a permanent track. Positive and negative pressures alternate in the wound track, with resultant sucking of foreign material and bacteria into the track from both entrance and exit. In high-velocity centerfire rifle wounds, the expanding walls of the temporary cavity are capable of doing severe damage. There is compression, stretching and shearing of the displaced tissue. Injuries to blood vessels, nerves, or organs not struck by the bullet, and a distance from the path, can occur as can fractures of bones, though, in the case of fractures, this is relatively rare. In the author's experience, fractures usually occur when the bullet perforates an intercostal space fracturing ribs above and below the bullet path."⁹

DiMaio further states,

“Projectile fragmentation can amplify the effects of the temporary cavity increasing the severity of a wound. This is the reason for the effectiveness of the 5.56 x 45-mm cartridge and the M-16 rifle. For the M-193 55-gr. bullet, on the average, the yaw becomes significant at 12 cm with marked tissue disruption occurring most commonly at 15-25 cm due principally to bullet fragmentation.”¹⁰

37. Because of the propensity of the 5.56mm/.223 caliber round to create significant damage upon impacting living tissue, it is not generally considered nor favored as a hunting cartridge.

38. Colt sought to capitalize on the military acceptance of the AR-15 / M-16 and shortly proposed production of these rifles for sale to the civilian market.

⁸ DiMaio, *Gunshot Wounds*, 2d (CRC Press LLC, 1999). P. 54

⁹ *Id.*, P. 55

¹⁰ *Id.*, P. 56

Colt submitted a sample to the Treasury Department on October 23, 1963 for approval. The difference between the military and civilian versions was removal of fully automatic capability. This modification was achieved through nine changes to the fire control system. These modifications did not change the general overall appearance or semiautomatic rate of fire of the rifle.

39. The animation in this video illustrates the function of both semiautomatic and full automatic AR-type rifles. Note that the difference between the two consists of only a few parts in the trigger control group. The same basic configuration and performance of the military rifle is shared with the semiautomatic models:

<https://www.youtube.com/watch?v=omv85cLfmXU>

40. The additional features on these rifles intended to enhance their capability as Military Firearms remained to include the bayonet lug and flash hider, and the rifle was designated the Model R6000 Colt AR-15 SP-1 (Sporter). The U.S. Treasury Department approved Colt's semiautomatic version of the rifle in December 1963.

41. In their Complaint on page 4, the plaintiffs' incorrectly claim:
"The term 'assault pistol' is not a technical term used in the firearms industry or community for firearms commonly available to civilians. Instead, the term is a rhetorically charged political term meant to stir the emotions of the public

against those persons who choose to exercise their constitutional right to possess certain semi-automatic firearms that are commonly owned by law-abiding American citizens for lawful purposes.”

42. Contrary to the plaintiffs’ claim of political contrivance, the term “assault weapon” had already entered common use in the firearms community as early as 1986 when the “Gun Digest Book of Assault Weapons” was first published. Edited by Jack Lewis, the front cover, which prominently displays an Action Arms UZI 9mm pistol, states that it contains:

“A detailed analysis of Assault Type Weapons”

“Test Reports – Firing the latest in full and Semi Autos, centerfires, rimfires and shotguns”



On page 103, Lewis writes: “Whatever a shooter’s reasons may be for wanting one, he’ll be able to find one of these civilian-legal semi-auto assault

weapons on dealer's shelves. A number of them are detailed on the following pages."¹¹

On page 133, in a review of the semiautomatic Holmes MP-83 9mm pistol, Lewis refers to it as an "Assault Pistol"¹²

43. The firearms industry has also promoted the similarities between semiautomatic versions of their fully automatic/ select fire battle rifles for marketing purposes.

Arm your men with confidence

**Colt's AR-15
Semi-Automatic
Rifle**

MODEL R-6000

- Lightweight
- Easy to handle
- Straight line construction
- Weighs only 6.3 pounds
- Extremely accurate
- Simple to maintain

Colt's answer to the law enforcement agencies' demands for a semi-automatic version of the M16 automatic rifle purchased by the United States Armed Forces. Painsstaking engineering redesign efforts have resulted in government-approved conversion of the automatic military rifle to a semi-automatic police weapon without sacrificing any performance or weight characteristics.

Colt Industries  **Colt's Small Arms Division
Security Equipment**
150 Houshope Avenue, Hartford, Conn. 06102

Source: <https://gearsofguns.com/old-ar-15-ads/>

¹¹ Lewis, Jack, *The Gun Digest Book of Assault Weapons*, (DBI Books, 1986).
P.103

¹²*Id.*, P.103



COLT **ARMALITE** AR-15 for today and tomorrow
Controlled **FIREPOWER...**



**ACCURATE, POWERFUL
AT LONG RANGE**

Unsurpassed as a Sniper Rifle both accurate and lethal, at 500 yards the AR-15 makes a complete penetration of 10 gauge steel, or both sides of a steel combat helmet. On impact the tumbling action of the .223 caliber ammunition increases effectiveness.



GRENADE LAUNCHER

Converts instantly without the use of supplementary attachments or adjustments with complete interchangeability of grenade launching or combat ammunition.



COLT

MANUFACTURED UNDER LICENSE FROM
FAIRCHILD ENGINE AND AIRPLANE CORPORATION
AND FAIRCHILD ARMS INTERNATIONAL LIMITED
BY COLT'S PATENT FIRE ARMS
MANUFACTURING COMPANY, INC.,
HARTFORD 15, CONNECTICUT, U.S.A. PATENTS PENDING.
CABLE "COLT" HARTFORD, U.S.A.

117 From the first Colt AR-15 brochure, produced in a desperate attempt to interest somebody - anybody - in the merits of the AR-15's "unmatched superiority".

Source: "The Black Rifle", p. 98. Full citation in bibliography

44. The term “Assault Pistol” is also used by those in the firearm industry:

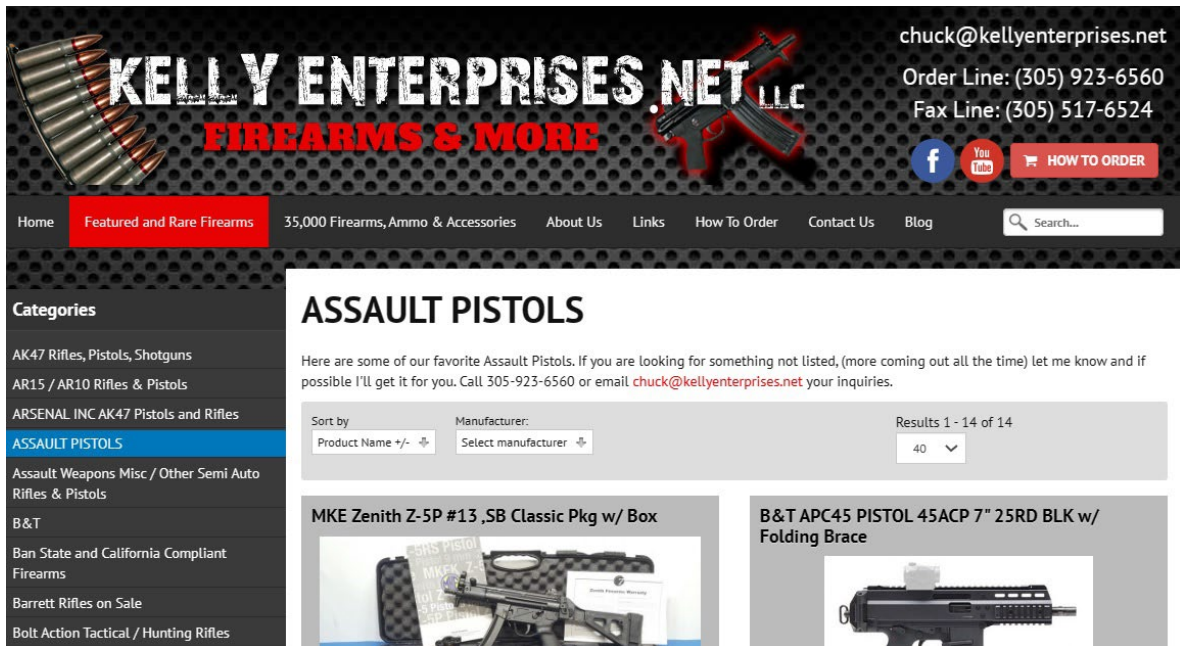


Image source: <https://www.kellyenterprises.net/firearms/assault-pistols.html>

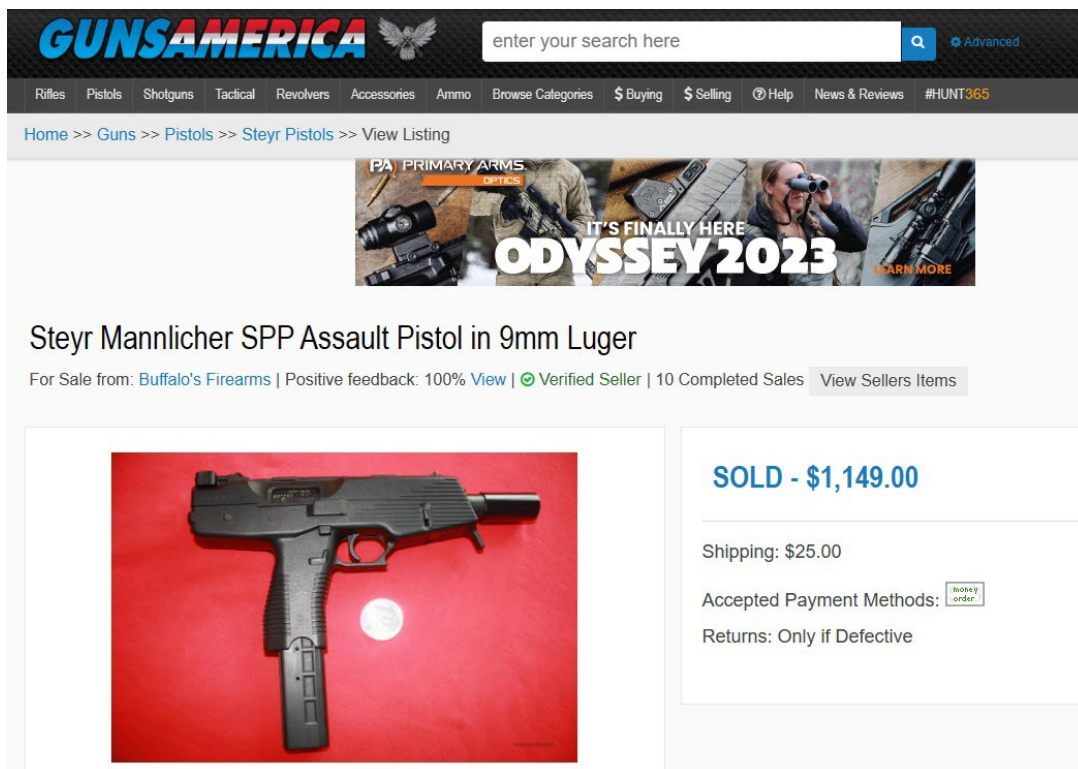


Image source: <https://www.gunsamerica.com/987215442/steyr-mannlicher-spp-assault-pistol-in-9mm-luger.htm>

45. Essentially assault weapons can be simply defined (under numerous State and local statutes) as semiautomatic copies of full automatic (or select fire) firearms designed and intended for use by the military. They retain features and performance characteristics (in terms of muzzle velocity, range etc.) originally designed and intended for use on the battlefield.

46. Following the passage of the Federal and numerous State and local assault weapon bans in the 1990s, the firearm industry via the National Shooting Sports Foundation (NSSF, a firearm industry trade and lobbying organization) reversed course and coined the moniker “Modern Sporting Rifle” to describe semiautomatic variants of the fully automatic / select fire weapons.

V. DEVELOPMENT OF ASSAULT PISTOLS

47. As with rifle-based assault weapons, many pistol caliber assault weapons can trace their lineage to firearms initially designed and intended for use by the military in combat as many are based on existing submachinegun designs. In fact, there has been a rise in the popularity of assault pistols which, being based on AK and AR receivers, (which themselves are based on fully automatic designs) that have the same performance as mentioned previously in regard to rifle-based assault weapons.

48. A submachine gun can generally be defined as a short or compact shoulder fired firearm which chambers and fires pistol caliber ammunition in select

fire or fully automatic mode, essentially a pistol caliber (i.e., “subcaliber”) machinegun.

49. Many of the construction and design features attributed to assault weapons, and the STG44, were first utilized in the design and manufacture of mid-20th century submachine guns. Nazi Germany entered the war with the innovative MP38 Maschinenpistole 38. It was chambered in 9mm and later, after several engineering changes, re-designated the P40. Its design features, later commonly found in assault weapons, included an adjustable stock, separate pistol grip, a detachable magazine and use of steel stampings in its construction.



Image Source: <https://www.19fortyfive.com/2021/01/hitler-vs-the-world-6-bestworld-war-ii-submachine-guns/>

50. While the United States initially entered World War II with a military variant of the Thompson .45 caliber submachinegun, it was heavy and expensive to manufacture as a number of the major components were machined from solid steel. Before the end of the war, the Thompson had been supplemented by the M3 “Greasegun” initially produced by General Motors. The receiver was a stamped

and welded sheet metal assembly with an adjustable sliding shoulder stock. Like the MP38, it had a separate pistol grip, a sliding / adjustable shoulder stock and a detachable box magazine with a 30-round capacity. In a utilitarian sense it was as effective as the Thompson and at approximately \$20, it was less than half as expensive for the U.S. Government to purchase.

51. The United Kingdom produced over one million Sten Submachine guns during WWII. A rugged and reliable firearm made largely from welded steel stampings it was utility and ease of manufacture both combined and perfected. Features shared with the M3 and MP40 included an adjustable and / or collapsible shoulder stock, a detachable box magazine and, on some variations, a barrel shroud allowing the operator to utilize the area surrounding the barrel as an auxiliary grip point without coming into contact with a heated barrel.

52. Prior to and during WWII, a number of other nations developed submachine guns which followed the same design and construction philosophy. Notable examples include the Soviet PPSH41, the Italian Beretta Model 38/42, and the Swedish Carl Gustav Model 45.

53. Following WWII, most new submachine gun designs continued the design philosophy which combined utility, ease of manufacture and the features of wartime firearms. In the early 1960s, HK introduced the MP5 which became an immensely popular choice for military and law enforcement agencies worldwide

due to its inherent reliability and accuracy. It was produced in multiple iterations to include a semiautomatic civilian version as well as a pistol variant without a provision for a shoulder stock (HK SP89).



Image Source: https://www.gunsinternational.com/guns-for-saleonline/pistols/9mm-pistols/excellent-condition-factory-german-hk-sp89-9mm-pistol.cfm?gun_id=101037518

54. Israeli military Industries also successfully marketed their UZI and Mini Uzi submachineguns for export in select fire, and in civilian semiautomatic pistol variants.



Image Source: https://www.military-today.com/firearms/uzi_pistol.htm

55. Additionally, a number of submachine gun designs proved unsuccessful in terms of military and government sales but nonetheless found a ready market when marketed as a semiautomatic pistol. Notable examples include the Cobray MAC-10 (and successive variants) and the Intratec TEC-9 which began life as a Swedish designed submachine gun, the Interdynamic MP-9.



ARMSLIST.com

Image Source: <https://www.armslist.com/posts/11522946/st-louis-missouri-handguns-for-sale--vulcan-mac-10>



Image Source: https://www.egunner.com/intratec-tec-dc99mmpara,name,11952922,auction_id,auction_details

56. As with the rifle caliber assault weapons mentioned previously, the performance characteristics of pistol caliber assault weapons in regard to semiautomatic rate of fire, muzzle velocity, and effective range have not changed since their initial incarnation as military weapons. Pistols based on AR & AK receivers that fire rifle caliber ammunition (.223 / 5.56 mm) maintain approximately the same performance characteristics (in terms of range, muzzle velocity etc.) as assault weapons as described previously.

VI. DEVELOPMENT OF HIGH-CAPACITY MAGAZINES

57. Modern semiautomatic rifles that are designed, manufactured and marketed as “hunting rifles” traditionally have had an internal magazine capacity of less than 10 rounds depending on caliber. For example, the Browning BAR, as

manufactured, has an internal magazine capacity of 4 rounds.

58. The operation (or cycle of fire) of any firearm designed and manufactured to accept a detachable magazine will function regardless of the maximum capacity of the magazine itself. For example, firearms such as the Beretta Model 92 semiautomatic pistol and AR-15 Type semiautomatic rifle will function as designed whether the operator utilizes a magazine limited to ten rounds or one of greater capacity. Generally speaking, any firearm capable of accepting a detachable magazine holding more than 10 rounds will also accept a magazine with a maximum capacity of ten rounds or fewer.

59. High-capacity magazines were not initially designed or intended for the civilian marketplace. The lineage of high-capacity detachable magazines can be traced directly to a military heritage. WWI introduced numerous magazine fed light machine guns to combat and the trend continued through WWII. As far as the individual infantryman's rifle was concerned in WWII the standard issue semiautomatic rifle for the U.S. Army as well as the U.S. Marine Corps was the M1 "Garand" chambered in .30-06. The M1 has an internal (non-detachable) magazine with a capacity of eight (8) rounds. It was not until the mid-1950s with the adoption of the M-14 that a rifle with a detachable magazine was approved as standard issue to front line members of the US Military.

60. Although technological advances in military firearms advanced at a rapid pace following WWII, large-capacity detachable magazines were not commonly marketed for the general public. For example, when Colt began production of the AR-15 (which became the M-16) for the US Military in the early 1960s it was initially issued with 20 round magazines. However, when Colt began marketing a “civilianized” semiautomatic variant for sale to the general public it was sold with two five (5) round magazines, not the 20 round magazines issued with the rifle to the U.S. Military.



**COLT AR-15 SPORTER
SEMI-AUTOMATIC RIFLE
.223 CALIBER**

Colt's answer to the demand for a semi-automatic version of the AR-15 automatic rifle purchased by The United States Armed Forces. Painsaking engineering redesign efforts have resulted in a Government-approved conversion of the Colt AR-15 automatic rifle without sacrificing any performance or weight characteristics. The semi-automatic AR-15 Sporter weighs only 6.3 pounds. Its recoil is light and barrel rise minimal.

MODEL R-6000

**RETAIL
PRICE*
\$189.50**

Lightweight • Extremely accurate • Easy to handle • Straight line construction — barrel, bolt, recoil buffer unit and stock assembled in a straight line • Rapid semi-automatic fire is more controllable than with rifles of commercial design • Simple to maintain.

CALIBER	BARREL LENGTH	OVERALL LENGTH	CAPACITY	SIGHTS	SAFETY	WEIGHT
.223	21"	39"	5 rounds	Double tang rear peep sight adjustable for windage. Post type front sight adjustable for elevation.	Rotary safety— selector lever	Approx. 6¾ lbs.

*The suggested retail price of the Sporter is \$189.50 and includes two magazines (each blocked for five rounds), sling, flash suppressor, rubber recoil pad, cleaning rod assembly, cleaning brush, and the Colt AR-15 Sporter Operation and Maintenance manual.

Image Source: <https://thecoltar15resource.com/1964-catalog/>

61. Magazine fed light machine guns developed or deployed prior to and during WWI, and thereafter refined, improved the capability and reliability of this type of feeding mechanism on a large scale. The ability to fire an increased quantity of cartridges without reloading increases the lethality and effectiveness of small arms in combat. Less time required to reload can equate to more time spent acquiring targets or shooting.

62. To the best of my knowledge, any semiautomatic firearm capable of accepting a large-capacity detachable magazine will accept a magazine with a capacity of ten rounds or less. I have fired a significant number of handguns and rifles with magazines of varying capacities. The capacity of the magazine did not affect the ability of those firearms to function as designed.

VII. PROLIFERATION OF THE AR & AK PLATFORMS

63. Since the late 1950s through the late 1960s the move towards adoption of semiautomatic and select fire rifles by military forces became a global phenomenon. Soviet Bloc nations rearmed with AK-type rifles (and their variants) while NATO Nations adopted a number of designs from Colt, HK and FN, as stated previously, around a standardized caliber rifle cartridge.

64. Several companies adapted these weapons, without changing their basic construction or design features, for civilian use. As stated previously, in the early 1960s Colt sought to capitalize on the military acceptance of the AR-15 /M-

16 and began to produce rifles, incorporating the same construction techniques and configuration as the AR-15 for sale on the civilian market. The only difference between the Colt-produced military and civilian versions was removal of select fire capability.

65. These civilian versions, including the Colt AR-15, retained the semiautomatic performance capacities of the full automatic military weapons they were based on, including the effective range, muzzle velocity and semiautomatic rate of fire. In addition, the weapons retained the capability to accommodate large-capacity magazines as originally issued for military use. Again however, the basic configuration, appearance, construction and operation of the internal gas operating system (as designed) has remained unchanged since its initial design and introduction as a full automatic military weapon.

66. The expiration of Colt's patents in the late 1970s naturally spawned competition in the marketplace. Throughout the design's lifespan many of the internal fire control components have remained unchanged and their specifications standardized industry wide. There are multiple internal parts that are completely interchangeable between military M16s manufactured in the 1960s by Colt and an AR-15 type rifle produced today by any one of hundreds of U.S. manufacturers that produce either receivers or internal operating parts. For example, a Bolt Carrier manufactured in 1967 by Colt will fit, and function as designed, in an AR

copy manufactured in 2023. Additionally, the overall configuration of “copycat” AR rifles remains essentially identical to the original production design of the early 1960s. The overall design configuration (two piece hinged receiver (shown below), shoulder stock in line with the chamber and barrel, placement of the magazine, external switches and other features) is identical or nearly so.

While employed at the ATF NLC, I was a custodian of the Laboratory’s Firearms Reference Collection. The firearms in the collection were regularly used by students in the National Firearms Examiner Academy and often required repair. I have personally replaced internal parts in older Colt AR-type rifles and Eastern Bloc manufactured AK rifles with recently manufactured parts from aftermarket vendors. The parts fit without issue and the firearms functioned as designed after the repair. The same internal parts will work in AK and AR pistols currently available commercially.

67. Due to their modular construction, AR-type rifles & pistols are easily constructed / configured with parts made by other manufacturers to suit the owner’s personal preference. The rifle receiver itself is designed as a two-piece unit and the “upper receiver” and “lower receiver” can be swapped out for other interchangeable pieces made by the same or another manufacturer with ease. The design also facilitates replacement of internal fire control components and assemblies.

68. Individual component pieces can be purchased allowing the

individual to build a custom AR-type rifle or pistol from the “ground up” as opposed to purchasing a complete firearm due to the standardization and interchangeability of parts and subassemblies. A good illustration of this ease of customization, and the plethora of interchangeable parts and accessories, is the fact that Brownell’s Inc., an established gun supply retailer in Iowa, currently devotes the first 107 pages of their “Big Book” (74th edition) catalog of parts and accessories to AR-type rifles & pistols alone:

<https://www.brownells.com/.aspx/bapid=835/ClientPage/brownells-catalog-74-pdfs>

69. The same holds true for AK-type rifles and, more recently, pistols available in the civilian market. Although the designs (and variants) of the AK-47 are more numerous than the AR-type rifle (as far as military production and use is concerned), it lags behind the AR in regard to domestic civilian popularity. Nonetheless whether the AK-type rifle is of Russian, Chinese or other former Eastern Bloc manufacture, there is a robust secondary market in the United States for accessories, parts, sub- assemblies etc. Although not as easily modified as an AR-style rifle or pistol due to its less “modular” design, there are customization options available including a variety of shoulder stocks, sighting and illumination, etc.

70. As with the AR, the general configuration and specifications of

internal AK operating parts and assemblies have remained consistent. Regardless of the place of manufacture, there are numerous internal fire control, feeding and gas operating system components that are interchangeable between AK rifles and pistols produced by manufacturers over the past 40-plus years. Again, as with AR-platform firearms, the overall configuration of the AK-platform receiver, internal operating systems and their parts, and performance (in terms of semiautomatic rate of fire, muzzle velocity, range etc.) are comparable to the full automatic military versions from which they evolved.

VIII. OPINION: ASSAULT WEAPONS AND SELF / HOME DEFENSE

71. Throughout their complaint, the Plaintiffs state that self-defense is one of the primary reasons for the purchase of an assault pistol, as defined by Hawaii law. It is my opinion that an AR- or AK- rifle or pistol is a poor choice for this purpose.

72. I have been asked on numerous occasions during my career what I would recommend for home or self-defense. My recommendation is based upon my inquiry in return regarding the individual's (and their family members') personal experience and comfort level with firearms. In over 25-plus years, I have never recommended an AR-, AK- based or other similar assault rifle or assault pistol as a home defense weapon.

73. Home defense and / or self-defense situations are rarely, if ever,

lengthy shootouts at long ranges with extensive exchanges of gunfire. Assault weapons were designed to be effective at battlefield ranges of up to 500 yards. The typical muzzle velocity of a .223 caliber bullet is 3,200 feet per second (+ or -). Projectiles travelling at velocities found in AK & AR pistols pose a serious risk of over-penetration in most home construction materials such as gypsum board / sheet rock, and typical 2x4 lumber. When this cartridge was designed for the AR-15 / M-16 it was intended to kill or incapacitate enemy combatants at distances of hundreds of yards, not dozens of feet.

74. In August 2014, the National Rifle Association's "American Rifleman" published an article by Stanton Wormley: "The AR-15 for Home Defense: Penetration Tests": <https://www.americanrifleman.org/content/the-ar-15-for-home-defense-penetration-tests/>. Wormley conducted penetration tests on nine different types of .223 / 5.56mm ammunition by firing them through simulated wall sections constructed of gypsum board / sheet rock and wooden 2x4 studs. When fired at a 90-degree angle to the walls, all nine (including "frangible" rounds designed to disintegrate when hitting a hard surface) easily penetrated the wall section as well as water jugs placed three feet behind:

"But just how much energy did the penetrating projectiles carry? All the loads, including the Glaser, exploded one-gallon water jugs placed 3 feet behind the wall sections."¹³

¹³ <https://www.americanrifleman.org/articles/2014/8/5/the-ar-15-for-home-defense-penetration->

The tests conducted by Wormley also included firing longitudinally through the wall sections, resulting in the penetration of three successive 2” thick 2x4 studs by a number of the projectiles. These tests vividly highlight the inherent dangers of utilizing assault weapons with high velocity ammunition in a home defense scenario.

75. Current U.S. Army issue .223 caliber ammunition is capable of penetrating 3/8” hardened steel at 350 yards. Potential over-penetration in a confined environment is problematic in terms of risk to bystanders or family members outside the target location. Most jacketed, commercially available 5.56mm ammunition has impressive penetration capabilities in this regard. Additionally, the (former) NATO issue M855 SS109 5.56mm is readily available for purchase by civilians. This ammunition was designed to penetrate up to 3mm of “soft,” (non-hardened) steel.

76. During a stressful situation such as a home invasion or break in there may be multiple steps required by the operator to bring the weapon from a safe condition to a firing condition. Manipulation of a charging handle, safety switch, or inserting a magazine may be difficult to accomplish under stress, particularly if the operator has not adequately trained or practiced with their firearm. Other family members may not be familiar with bringing the weapon to a firing condition or fail to complete adequate steps to do so under duress.

77. While employed as a Special Agent with ATF, the agency transitioned to an AR-type rifle in the early 2000s. Each Agent was required to attend, and successfully complete, a one week / 40 plus hour transition training class in order to familiarize themselves, and qualify, with the firearm. The training included repetitive live fire drills under stressful conditions. Additionally, we were required to requalify with these firearms quarterly and repeat the same drills as during the initial transition training. Nonetheless, I witnessed Agents make errors during those drills, although they had performed them repeatedly under stress, that resulted in a failure of the weapon to fire. It is worth noting here that the M4 carbines issued to ATF Field Offices were select fire rifles (i.e., machineguns capable of full automatic fire) that were converted to semiautomatic fire only.

78. In my opinion, based upon my training, knowledge, experience and research, assault pistols were not designed for traditional hunting purposes. Pistol caliber firearms (.380, 9mm, .45) are not a popular hunting caliber. Neither was the .223/ 5.56 caliber cartridge developed for civilian hunting applications. Due to .223 caliber / 5.56 mm bullets proven record of causing considerable tissue damage (when fired from an AR type rifle or pistol) it is a counterintuitive choice.

79. In terms of home defense and personal protection, I am of the opinion that assault weapons, whether in the form of a rifle or a pistol, are a poor choice for either purpose. Due to their weight and length, many assault pistols banned under

Hawaii law require two hands to effectively aim and shoot. Certainly the same can be said for a rifle. In a home defense situation an individual may be required to use one hand to call 911 while attempting to operate a “two handed” firearm with one hand. Such a situation would also preclude the homeowner from utilizing their “non gun hand” to pick up or guide a small child or vulnerable / handicapped adult during such an event. For example, the Daniel Defense DDM4V7P pistol with an attached “stabilizing brace” as shown here in their online catalog is 28.5 inches in length and weighs 5.34 pounds (85.4 ounces) unloaded.¹⁴ By comparison, a Glock 17 pistol measures 4.4 inches long and weighs 1.37 pounds (22.05 ounces) unloaded.¹⁵



Image Source: <https://danieldefense.com/ddm4-v7p.html>

80. Essentially the types of firearms classified as assault pistols under Hawaii law, particularly AR- and AK- based firearms, are direct developmental descendants of full automatic military weapons designed for use in combat. The ‘civilian’ AR-15 type rifles and pistols in .223 / 5.56mm retains the same

¹⁴ <https://danieldefense.com/ddm4-v7p.html>

¹⁵ <https://us.glock.com/en/pistols/g17>

performance characteristics (in terms of muzzle velocity, etc.) as does the military M-16 and its variants (M-16A2, M-4 etc.).

IX. ASSAULT WEAPONS AS A GENERAL THREAT TO PUBLIC SAFETY

81. As mentioned previously in this report, many of the firearms prohibited by statute directly trace their origins to those developed for use in combat. As such, they were never initially intended for general distribution / sale to the public.

As tragically demonstrated by recent mass shootings such as the Pulse Nightclub in Orlando Florida in 2016 (49 fatalities, 50+ wounded), the 2017 Las Vegas shooting (60 fatalities, 400+ wounded), the 2022 Uvalde Texas School shooting (21 fatalities + 17 wounded), and the July 4th 2022 shooting in Highland Park (7 fatalities + 48 wounded), the assault weapons (in conjunction with high-capacity magazines) are capable of inflicting significant carnage upon civilians in a short period of time.

82. Many assault pistols as prohibited under Hawaii law pose a significant risk to law enforcement officers. It has been my experience that soft body armor issued to most uniformed officers has a “Level II” or “Level IIIA” National Institute of Justice (NIJ) protection rating. These two ratings are suitable for protection against most handgun bullets as those projectiles range up to a 1200FPS (+ or -) velocity. Rifle caliber pistols (AR- & AK- type) can, as stated previously in this report, achieve muzzle velocities of 3200FPS (+ or -) which can readily

penetrate Level II & IIIA body armor (as well as some Level III hard body armor which is not universal standard issue amongst law enforcement agencies nationwide). Not only do those assault pistols prohibited by Hawai‘i law pose a threat to overall public safety, they increase the likelihood that first responders charged with stopping such a threat, or attending to wounded citizens, may be injured or killed in the performance of their duty.

This online video illustrates the capability of commonly available .223 / 5.56mm caliber ammunition to penetrate hard plate Level III body armor. The author / narrator states that this test was performed at a distance of “about seven yards.”

<https://www.youtube.com/watch?v=oMYkEMhPsO8>

83. The argument that commercially available assault pistols are somehow less dangerous or lethal simply because they fire only in semiautomatic mode is misleading. They retain the identical performance capabilities and characteristics (save full automatic capability) as initially intended for use in combat. With even minimal training an operator can fire 40-50 shots per minute in semiautomatic mode.

84. According to the U.S. Army Manual, the most effective use of the M-16 at ranges beyond 25 yards is rapid semiautomatic fire, not full automatic fire. Such capability combined with the performance characteristics of .223 / 5.56

ammunition originally designed and intended for combat can, and have, resulted in catastrophic civilian mass casualty events.

7-8. RAPID SEMIAUTOMATIC FIRE

The most important firing technique during modern, fast moving combat is rapid semiautomatic fire. Rapid-fire techniques are the key to hitting the short exposure, multiple, or moving targets described previously. If properly applied, rapid semiautomatic fire delivers a large volume of effective fire into a target area. The soldier intentionally fires a quick series of shots into the target area to assure a high probability of a hit. (Figure 7-10, page 7-8 shows the current training program for rapid semiautomatic fire.)

Figure 7-10. Rapid semiautomatic fire training program.

a. **Effectiveness of Rapid Fire.** When a soldier uses rapid semiautomatic fire properly, he sacrifices some accuracy to deliver a greater volume of effective fire to hit more targets. It is surprising how devastatingly accurate rapid fire can be. At ranges beyond 25 meters, rapid semiautomatic fire is superior to automatic fire in all measures (shots per target, trigger pulls per hit, and even time to hit). The decrease in accuracy when firing faster is reduced with proper training and repeated practice.

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

DATED: Manchester, Maryland, February 13, 2023.


A handwritten signature in black ink, appearing to read "James E. Yurgealtis", is written over a horizontal line. Below the line, the name "JAMES E. YURGEALTIS" is printed in a bold, sans-serif font.

JAMES E. YURGEALTIS

James E. Yurgealitis

5004 Roller Rd., Manchester, Maryland 21102
24 Hour Mobile: (443) 452-7248
Email: jyurgealitis@gmail.com

SUMMARY:

Self employed as a Legal and Public Policy Consultant providing Technical Firearms and Forensic Consulting, Testing and Policy Research / Training Services to Corporations, Legal Counsel and the Public Sector

EDUCATION:

B.A., Political Science and Psychology, St. John Fisher University, Rochester, New York – May 1985

PROFESSIONAL EXPERIENCE:

December 2012 to Present: Independent Legal and Policy Consultant / Subject Matter Expert

Currently provide independent consulting services to Corporations, Legal Counsel and Governmental entities in regard to Public Policy and Technical matters relating to Firearms, Firearms Policy, Forensics and Law Enforcement. Current and former clients include the Office of the District Attorney for Cook County Illinois, The City of Sunnyvale, California, The City of Highland Park, Illinois, The Office of the Attorney General for the Commonwealth of Massachusetts and the Center for American Progress, Washington D.C. I have provided sound policy and technical assistance for my clients to include expert testimony which successfully endured the opposition’s legal appeals to the U.S. Circuit Court of Appeals and the U.S. Supreme Court.

December 2003 to December 2012: Senior Special Agent / Program Manager for Forensic Services ATF National Laboratory Center (NLC), Beltsville, Maryland. U. S Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

Directed the administration and management of ATF’s Forensic Training Programs to include the National Firearms Examiner Academy (NFEA) a 12-month training program for State and Local Forensic Firearm Examiner Trainees. Also managed two additional forensic training programs. Administered a \$1M + budget in accordance with strict ATF and National Institute of Justice (NIJ) guidelines and reporting requirements. Responsible for oversight of all Forensic Firearms related research at the NLC. Supervised a full and part time cadre of fifty-two (52) instructors and administrative personnel. Maintained liaison with commercial firearms and ammunition manufacturers and subject matter experts and ensure that lesson plans and curriculum reflected the latest technical developments in firearms manufacture, forensics and their application to federal and state law. Applied for, received and managed in excess of \$2M in external grants to facilitate uninterrupted delivery of training during internal budget shortfalls. Detailed to the Department of Homeland Security Command Center in 2005 with overall responsibility to coordinate and direct Federal, State and Local Law Enforcement assets during and following Hurricanes “Irene” and “Katrina” and again in 2010 for “Andrew” and “Danielle”.

June 1997 - December 2003: Special Agent / Violent Crime Coordinator, ATF Baltimore Field Division, Baltimore, Maryland

Responsible for management of ATF's "Project Disarm", a joint law enforcement initiative between ATF, The United States Attorney's office for the District of Maryland (USAO), the Baltimore City Police Department, the Baltimore City States Attorney's Office and the Maryland State Police. Duties included reviewing over 400 state and local firearms related arrests annually for subsequent referral to the USAO and Federal Prosecution. Managed a caseload of 75 – 100 criminal cases annually. Responsible for selection, referral, follow - up investigation and subsequent indictment and prosecution of armed career criminals. Testified in front of Federal Grand Juries in excess of 75 times annually. Was recognized, and testified, as an expert witness in the Identification, Operability and origin of Firearms and Ammunition in three Federal Judicial Districts. Toured over 25 firearms and ammunition manufacturing facilities in Europe and the United States. Temporarily assigned in 2001 for three months to the 9-11 Task Force investigation in conjunction with FBI Assets. Temporarily assigned to the D.C. Sniper Task Force Intelligence Group in 2002 for two months.

June 1990 – June 1997:

Special Agent, ATF Baltimore Field Division, Baltimore, Maryland

Served in various capacities as a street-level Special Agent. Acted as Group Supervisor and Assistant Special Agent in Charge on numerous occasions. Served on the Washington – Baltimore High Intensity Drug Trafficking Area (HIDTA) task force from 1995 – 1999. Investigated armed narcotics trafficking organizations, seized assets, authored and executed Federal and state search and arrest warrants, conducted surveillance, interviews / interrogations, testified in Federal and state courts as a fact witness, purchased firearms, explosives and narcotics while in an undercover capacity, investigated fatal bombings and arsons, firearms trafficking, alcohol and tobacco trafficking, homicide, fraud and gun store burglaries. Also while detailed for 8 months as the Public Information Officer authored press releases, provided interviews to local and national print and television media outlets and made presentations to local and national public and special interest groups and associations.

April 1989 – June 1990 and July 1986 – March 1987: Special Agent, United States Department of State, Diplomatic Security Service (DSS), Washington Field Office, Rosslyn, VA

Conducted investigations of violations of Federal Law under the department's purview to include Passport and Visa Fraud, Illegal trafficking of restricted firearms and war materials to prohibited countries, human trafficking, seized assets, authored and executed State, local and Federal Arrest and Search Warrants, testified in Federal Court as a fact witness, detailed on an as needed basis to the Dignitary Protection Division as Agent in Charge of multiple protective details for visiting and resident foreign dignitaries, temporarily assigned to support Physical and Personal Protective Security in various U.S. Embassies overseas on an as needed basis, detailed to the Secretary of State Protective Division on an as needed basis to supervise agents assigned to augment the permanent protective detail.

March 1987-February 1989: Special Agent, DSS, Secretary of State Protective Division, Washington, DC

Served in various capacities as Acting Agent in Charge, Acting Shift Leader, Lead Advance Agent and Shift Agent. Responsibilities included close personal protection of the Secretary of State both domestically and overseas, extensive foreign travel to facilitate and prepare security arrangements for overseas visits to include Presidential Summit meetings, liaison with foreign host government officials to plan and solicit assistance with security arrangements, supervision of agents temporarily assigned to augment the detail, liaison with U.S Government Intelligence Agencies and other Federal, State and Local Law Enforcement Agencies to identify and protect against potential threats to the Secretary of State.

CLEARANCES: Top Secret March 1986 valid through February 2015. Numerous prior SCI Clearances.

TEACHING EXPERIENCE:

- Instructed at the Federal Law Enforcement Training Center (FLETC), for ATF and other Federal Law Enforcement Agencies
- Instructed at the International Law Enforcement Academy (ILEA) in Budapest, Hungary
- Instructed for numerous State, local and / or regional law enforcement agencies both in the United States, Canada and Central America

LINKEDIN PROFILE AND ENDORSEMENTS:

https://www.linkedin.com/in/james-jim-yurgealitis-68618464?trk=nav_responsive_tab_profile_pic

REFERENCES:

Available upon request

**Professional Qualifications of James E. Yurgealitis
Independent Legal, Public Policy and Forensic Consultant**

I, James E. Yurgealitis, being duly sworn, depose and state:

- 1.) That I was previously employed as a Senior Special Agent / Program Manager with the Bureau of Alcohol, Tobacco Firearms & Explosives, (ATF) United States Department of Justice, and had been so employed since 1990. Prior to 1990 I was employed as a Special Agent with the Bureau of Diplomatic Security, (DSS) United States Department of State and had been so employed since 1986.
- 2.) I have a Bachelor of Arts Degree in Political Science and Psychology from St. John Fisher College, Rochester, New York.
- 3.) I am a graduate of the Federal Law Enforcement Training Center, Glynco, Georgia, the Criminal Investigator Training Program, Bureau of Diplomatic Security New Agent Training, and the Bureau of ATF New Agent Training Program.
- 4.) I have completed the Firearms Interstate Nexus Training Program conducted by the Firearms Technology Branch, ATF Headquarters, Washington, D.C.
- 5.) I have completed both Advanced Interstate and European Nexus Training conducted by ATF in conjunction with several domestic and European firearm manufacturers.
- 6.) I have testified in excess of 200 times before Federal Grand Juries regarding the classification, operability, and commerce of firearms and / or ammunition.
- 7.) I have previously qualified as an expert witness regarding the origin, operability / classification and interstate movement of firearms and ammunition in U.S. District Court for the District of Maryland, U.S. District Court for the District of Delaware and the Circuit Court For Baltimore City, Maryland.
- 8.) I have conducted regular training for local, state and federal law enforcement agencies both domestically and overseas regarding firearms classification, operability and firearms statutes.
- 9.) I maintain a personal library of books, printed material and documents that relate to the field of firearms, ammunition, and firearms classification, attend local and national trade shows and professional association meetings, and regularly review periodicals relating to firearms and ammunition.
- 10.) I attend trade shows, maintain contact with, and regularly consult with other persons, to include published authors and recognized experts in the origin, identification and classification of firearms and ammunition.
- 11.) I have, during my tenure with ATF, personally examined in excess of five thousand

EXHIBIT B (Yurgealitis)

Qualifications Of James E. Yurgealitis contd.

firearms to determine their origin and classification and operability, and to facilitate the tracing of those firearms.

I have toured production facilities for numerous firearms and ammunition manufacturers. The tours were conducted by corporate historians, corporate officers, or production engineering personnel.

Domestic Firearm Manufacturers:

Bushmaster Firearms, Ilion, NY, USA
Colt, New Haven CT, USA (4x)
H&R 1871 Inc., Chicopee, MA, USA (2x)
Marlin, North Haven CT, USA (4x)
O.F. Mossberg & Sons, North Haven, CT, USA (4x)
Remington Firearms, Ilion, NY, USA
Savage Arms Inc., Westfield, MA, USA (4x)
Sig-Sauer / SIGARMS Inc., Exeter, NH, USA (3x)
Smith and Wesson, Springfield, MA, USA (4x)
Sturm Ruger, Newport, NH, USA (4x)
Yankee Hill Machining, Florence, MA, USA

Foreign Firearm Manufacturers:

Carl Walther GmbH, Ulm, Germany
Ceska Zbrojovka (CZ), Uhersky Brod, Czech Republic
Fegarmy (FEG), Budapest, Hungary
F.N Herstal S.A., Herstal, Belgium
Glock GmbH, Deutsch-Wagram, Austria
Heckler & Koch GmbH, Oberndorf au Neckar, Germany
J.P. Sauer & Sohn GmbH, Eckernforde, Germany

Domestic Ammunition Manufacturers:

Fiocchi Ammunition, Ozark, MO, USA
PMC, Boulder City, NV, USA
Remington, Lonoke, AR, USA (4x)
Sierra, Sedalia, MO, USA
Starline Brass, Sedalia, MO, USA

European Proof Houses

Beschussamt Ulm, (Ulm Proofhouse) Ulm, Germany
Beschusstelle Eckernforde, (Eckernforde Proofhouse) Eckernforde, Germany
Czech Republic Proofhouse, Uhersky Brod, Czech Republic
Liege Proofhouse, Liege, Belgium

Qualifications Of James E. Yurgealitis contd.

I have been allowed regular access to the following reference collections:

Bureau of Alcohol, Tobacco Firearms and Explosives Reference Collection, Martinsburg, West Virginia, USA consisting of 5,000+ firearms

Liege Proofhouse, Liege, Belgium consisting of 1,000+ ammunition cartridges

Springfield Armory National Historic Site Firearms Collection, Springfield, MA, USA consisting of 10,000+ Firearms

Smithsonian Institution (Museum of American History) Firearms Reference Collection Washington, DC, USA, consisting of 4000+ firearms

Wertechische Studiensammlung des BWB, (Federal Defense Procurement Bureau Museum) Koblenz, Germany consisting of 10,000+ Firearms

I have toured the following museums:

Heeresgeschichtliches Museum, (Museum of Military History), Vienna, Austria

Hungarian Military Museum, Budapest, Hungary

Springfield Armory National Historic Site, Springfield, MA, USA

United States Air Force Museum, Dayton, OH, USA

United States Army Ordnance Museum, Aberdeen Proving Ground, Aberdeen, MD, USA

United States Military Academy Museum, West Point, NY, USA

United States Naval Academy Museum, Annapolis, MD, USA

Wertechische Studiensammlung des BWB, (Federal Defense Procurement Bureau Museum) Koblenz, Germany

Membership in Professional Organizations:

Member, International Ammunition Association (IAA)

Technical Advisor (pending approval), Association of Firearm and Toolmark Examiners (AFTE)

Member, Federal Law Enforcement Officers Association (FLEOA)

HOUSE JOURNAL - STANDING COMMITTEE REPORTS

1382

The City and County recommended that this bill be limited to authorizing the seizure of license plates and allowing the impoundment of the uninsured vehicle by the County Police Department. The City's concern is that the police officer not be required to enter private property to confiscate the license plates.

Your Committee has accordingly amended the bill to provide for seizure of license plates when a police officer locates the vehicle, presumably on public streets.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2258, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2258, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Cachola.

SCRep. 1261-92 Judiciary on S.B. No. 1843

The purpose of this bill, as received, is to:

- (1) Define "assault firearm", "pistol grip", and "semi-automatic firearm";
- (2) Require registration of assault firearms lawfully possessed prior to November 4, 1992;
- (3) Restrict the importation of new assault firearms; and
- (4) Prohibit the manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of detachable magazines.

Testimony in support of this measure was submitted by the Department of the Attorney General, the Department of the Prosecuting Attorney for the City and County of Honolulu as well as the Counties of Hawaii, Kauai, and Maui, the Police Department for the City and County of Honolulu as well as the Counties of Hawaii, Kauai, and Maui, the Department of Public Safety, the Department of Health, the Office of Youth Services, the Injury Prevention Advisory Committee, the Hawaii Chapter of the FBI National Academy Associates, the State of Hawaii Organization of Police Officers, the Hawaii Firearms Control Coalition, the Hawaii Medical Association, and other agencies, community organizations, and private citizens.

Testimony in opposition to this measure was submitted by the National Rifle Association, the Hawaii Federation of Sportsmen, the Hawaii Rifle Association, the Valley Isle Sport Shooters, the Maui Expedition, the Media Shooting Club, the Hawaii Chapter of the Safari Club International, and other clubs, organizations, and private citizens.

Testimony indicated that semi-automatic assault pistols are particularly dangerous because they are easily concealed, can fire in rapid succession for sustained periods, often have barrel shrouds or threaded barrels designed for silencers, and often accept large-capacity, detachable ammunition magazines. Your Committee finds that characteristics such as these make these types of weapons especially dangerous and that the Legislature may reasonably restrict the use, possession, sale, and transfer of such weapons.

Your Committee prefers to avoid specifying a list of firearms meeting the definition of assault pistol, so it has developed a list of objective physical characteristics typical of the firearms which represents a heightened risk of danger to our community because of their concealability and firepower while having little or no utility for sporting applications.

Each of the characteristics identified were chosen because they facilitate firing a large amount of ammunition in a short period of time while maintaining sufficient control of the firearm to permit a "spraying" effect. Your Committee wishes to clarify that firearms which are "a semiautomatic version of an automatic firearm" are of particular concern because a significant number of these firearms can be converted to fully automatic fire, even if only temporarily, with relative ease. Some of these firearms, such as the UZI pistol, may have been redesigned from a fully automatic carbine for semiautomatic operation, but are clearly "versions" of those weapons because they possess many, if not all, of the characteristics of their ancestors except their mode of operation.

This bill has been amended as follows:

- (1) By deleting all existing substantive provisions;
- (2) By inserting provisions defining "assault pistols" and "semiautomatic";
- (3) By restricting the lawful possession of assault pistols;
- (4) By prohibiting the manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of certain detachable magazines; and
- (5) By inserting a provision directing the Chiefs of Police of the respective counties and the Attorney General to make reasonable efforts to publicize a list of firearms which the respective chiefs have determined meet the definition of "assault pistol", with the proviso that the respective Chiefs have no authority to adopt rules or regulations having the force of law.

EXHIBIT "9"

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1843, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1843, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Cachola.

SCRep. 1262-92 Judiciary on S.B. No. 3316

The purpose of this bill, as received, is to establish an expanded marine life conservation district (MLCD) in the Waikiki-Diamond Head area. The new MLCD would extend out to sea from the Diamond Head lighthouse in the east and the Ala Wai Channel in the west. The seaward boundary of the MLCD would be established by the straight line connecting the Diamond Head buoy with the point directly out from the Ala Wai Channel at which the depth of the ocean reaches 100 feet. Within the new MLCD there would exist zones A, B, and C, each zone in turn containing a subzone. These subzones would each have a southern boundary measured at a distance of 500 yards from the highwater mark or to the edge of the fringing reef, whichever is greater. Activities within each zone or subzone would be governed by laws or rules. The MLCD would be established by the rule-making authority of the Department of Land and Natural Resources (DLNR), prior to January 1, 1993.

Testimony in support of this measure was received from the Honolulu Department of Parks and Recreation, the Bishop Museum, the Waikiki Improvement Association, the Waikiki Beachcomber Hotel, Kawika Aina Corporation, Aikane Catamarans, and numerous individuals.

Testimony in support of the intent of this bill was received from the Department of Land and Natural Resources, TORCH, the Hawaii Council of Diving Clubs, the Hilton Hotels Corporation, and numerous individuals.

Testimony in opposition to this measure was received from the Hawaii Beachboy Service Association, Surf and Water Sports World, Ocean Innovators, Save Our Surf, Tropical Fish & Vegetable Center, West Diamond Head Community Association, Sierra Club, Uaukewai Diving, Salvage & Fishing, Robert Dunn and Associates, All Hawaiian Tropicals, and many private citizens.

Waikiki is a favorite water usage area for residents of Oahu. One popular reason that residents enjoy Waikiki's beach and ocean is to primarily view and relate to its beautiful fish. Presently, Oahu does not have enough sites where these activities can take place. The present Waikiki MLCD has been partially successful, and has resulted in a noticeable increase in the numbers of fishes, but more deep water habitat is needed to allow larger fish to find safe refuge. It is these larger fish which are most important to breeding populations. The present MLCD provides a safe habitat for young fish but there is no deep water haven to move to when they grow older. As soon as they move over the edge of the fringing reef into deeper water they become fair game. It is for the protection of these larger fish that the Waikiki MLCD was proposed to be expanded.

Reasons given by those testifying in support of this measure includes, that government management of this area:

- (1) Promotes the increase of marine life; and
- (2) Eliminates the safety hazard of mixed uses (fishing and swimming).

Reasons given by those testifying in opposition to this bill includes, that the bill:

- (1) Fails to account for the many uses of the area; and
- (2) Favors certain commercial activities over others.

Your Committee is appreciative of the tremendous public response generated by this bill's subject matter. Your Committee finds that all of the people who testified before it were sincere in their belief that the conservation and preservation of Waikiki's remaining resources is of primary concern to the people of this State. Where these parties diverge, however, is in the manner of managing these resources.

In consideration of all of the issues raised before this Committee, this bill is amended by deleting its substantive contents. This bill is also amended by inserting language mandating:

- (1) That there is established within the Office of State Planning a task force to develop a feasibility plan to expand the Waikiki MLCD. The task force shall consist of seventeen members, each member to be a representative from a different group, organization, or agency. Those to be represented are:
 - (a) the Department of Land and Natural Resources;
 - (b) the Harbor Patrol;
 - (c) the Hawaii Beachboy Service Association;
 - (d) the Waikiki Improvement Association;
 - (e) the Hawaii Hotel Association;
 - (f) Neighborhood Board Number 5;

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I

NATIONAL ASSOCIATION FOR
GUN RIGHTS; RONDELLE AYAU;
JEFFREY BRYANT,

Plaintiffs,

v.

ANNE E. LOPEZ, in her official
capacity as Attorney General for the
State of Hawai‘i,

Defendant.

Civil No. 1:22-cv-404-DKW-RT

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served electronically through the Court’s CM/ECF system or conventionally by mailing copies via US Mail, postage prepaid, upon the following at their last known addresses:

Marc J. Victor, Esq.
Jody L. Broaddus, Esq.
Caroline M. Elliott, Esq.
Attorneys for Freedom Law Firm
1003 Bishop Street, Suite 1260
Pauahi Tower
Honolulu, HI 96813
Marc@AttorneysForFreedom.com
Jody@AttorneysForFreedom.com
Caroline@AttorneysForFreedom.com

Barry K. Arrington, Esq.
4195 Wadsworth Boulevard
Wheat Ridge, CO 80033
barry@arringtonpc.com

Sebastian Torres, Esq.
Gatlin Voelker
50 East Rivercenter Boulevard #1275
Covington, KY 41011
storres@gatlinvoelker.com

Counsel for Plaintiffs NATIONAL ASSOCIATION FOR GUN RIGHTS,
RONDELLE AYAU, and JEFFREY BRYANT

DATED: Honolulu, Hawai'i, February 15, 2023.

/s/ Kaliko 'onālani D. Fernandes
KIMBERLY T. GUIDRY
EWAN C. RAYNER
KALIKO'ONĀLANI D. FERNANDES
NICHOLAS M. MCLEAN

Attorneys for Defendant ANNE E. LOPEZ,
in her official capacity as Attorney General
for the State of Hawai'i