

EXHIBIT 47

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9

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION
13

14 **STEVEN RUPP; STEVEN**
DEMBER; CHERYL JOHNSON;
15 **MICHAEL JONES;**
CHRISTOPHER SEIFERT;
16 **ALFONSO VALENCIA; TROY**
WILLIS; and CALIFORNIA RIFLE
17 **& PISTOL ASSOCIATION,**
INCORPORATED,
18

19 Plaintiffs,
20

21 v.
22

23 **ROB BONTA, in his official capacity**
as Attorney General of the State of
24 **California; and DOES 1-10,**
25

26 Defendants.
27
28

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL EXPERT
REPORT AND DECLARATION
OF LUCY P. ALLEN**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton
Action Filed: April 24, 2017

¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the Attorney General of the State of California. Pursuant to Federal Rule of Civil Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as the defendant in this case.

**SUPPLEMENTAL EXPERT REPORT AND DECLARATION
OF LUCY P. ALLEN**

I, Lucy P. Allen, declare:

1. I previously submitted an expert report in this case dated October 25, 2018 (the “2018 Report”). This supplemental expert report provides additional data and analysis. I have personal knowledge of the matters discussed in this report, and if called as a witness, I could competently testify to these matters.

I. SCOPE OF ASSIGNMENT

2. I have been asked by the Office of the Attorney General of California to address the following issues: (a) the number of rounds of ammunition fired by individuals using a gun in self-defense;² and (b) the outcomes when assault weapons (as defined under California law)³ and large-capacity magazines (magazines capable of holding more than ten rounds) are used in public mass shootings, including the associated number of casualties.

II. QUALIFICATIONS AND REMUNERATION

A. Qualifications

3. I am a Managing Director of NERA Economic Consulting (“NERA”), a member of NERA’s Securities and Finance Practice and Chair of NERA’s Product Liability and Mass Torts Practice. NERA provides practical economic advice related to highly complex business and legal issues arising from

² I have also been asked to analyze the percent of incidents in which rifles were used in self-defense according to The Heritage Foundation’s “Defensive Gun Uses in the U.S.” database.

³ It is my understanding that the primary provisions of California law that are relevant to this case are: California Penal Code sections 30510 and 30515, and California Code of Regulations, title 11, section 5499. See, for example, California Department of Justice: “What is considered an assault weapon under California law?” and “What are AK and AR-15 series weapons?”

<https://oag.ca.gov/firearms/regagunfaqs>, accessed October 25, 2018.

1 competition, regulation, public policy, strategy, finance, and litigation. NERA was
2 established in 1961 and now employs approximately 500 people in more than 20
3 offices worldwide.

4 4. In my over 25 years at NERA, I have been engaged as an economic
5 consultant or expert witness in numerous projects involving economics and
6 statistics. I have been qualified as an expert and testified in court on various
7 economic and statistical issues relating to the flow of guns into the criminal market.
8 I have testified at trials in Federal and State Courts, before the New York City
9 Council Public Safety Committee, the American Arbitration Association and the
10 Judicial Arbitration Mediation Service, as well as in depositions.

11 5. I have an A.B. from Stanford University, an M.B.A. from Yale
12 University, and M.A. and M. Phil. degrees in Economics, also from Yale
13 University. Prior to joining NERA, I was an Economist for both President George
14 H. W. Bush's and President Bill Clinton's Council of Economic Advisers. My
15 resume with recent publications and testifying experience is included as Exhibit A.
16

17 **B. Remuneration**

18 6. NERA is being compensated for time spent by me and my team at
19 standard billing rates and for out-of-pocket expenses at cost. NERA billed for my
20 time at \$1,050 per hour in 2022. NERA's fees are not in any way contingent upon
21 the outcome of this matter.

22 **III. MATERIALS CONSIDERED**

23 7. In preparing this report, I considered the following materials:⁴

- 24 a) Third Amended Complaint for Declaratory and Injunctive Relief, filed
25 June 27, 2018 ("Complaint");
26

27
28 ⁴ Specific cites are in Exhibit B, Exhibit C, and footnotes to this report.

- 1 b) NRA Institute for Legislative Action, Armed Citizens,
2 <https://www.nraila.org/gun-laws/armed-citizen/>, accessed May 28, 2017;
- 3 c) News stories from Factiva;
- 4 d) California Department of Justice: “What is considered an assault weapon
5 under California law?” and “What are AK and AR-15 series weapons?”
6 <https://oag.ca.gov/firearms/regagunfaqs>;
- 7 e) Mother Jones: “US Mass Shootings, 1982-2022: Data From Mother
8 Jones’ Investigation,” updated November 23, 2022,
9 [http://www.motherjones.com/politics/2012/12/mass-shootings-mother-](http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data)
10 [jones-full-data](http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data); “A Guide to Mass Shootings in America,” updated
11 November 23, 2022, [http://www.motherjones.com/politics/2012/07/mass-](http://www.motherjones.com/politics/2012/07/mass-shootings-map)
12 [shootings-map](http://www.motherjones.com/politics/2012/07/mass-shootings-map); “What Exactly is a Mass Shooting,” Mother Jones,
13 August 14, 2012, [http://www.motherjones.com/mojo/2012/08/what-is-a-](http://www.motherjones.com/mojo/2012/08/what-is-a-mass-shooting)
14 [mass-shooting](http://www.motherjones.com/mojo/2012/08/what-is-a-mass-shooting). Additional details for the mass shootings obtained through
15 Factiva and Google searches;
- 16 f) Citizens Crime Commission of New York City: “Mayhem Multiplied:
17 Mass Shooters and Assault Weapons,” February 2018 update; “Mass
18 Shooting Incidents in America (1984-2012),”
19 [http://www.nycrimecommission.org/mass-shooting-incidents-](http://www.nycrimecommission.org/mass-shooting-incidents-america.php)
20 [america.php](http://www.nycrimecommission.org/mass-shooting-incidents-america.php). Additional details for the mass shootings obtained through
21 Factiva and Google searches;
- 22 g) The Washington Post: “The terrible numbers that grow with each mass
23 shooting,” updated May 12, 2021.
- 24 h) The Violence Project: “Mass Shooter Database,”
25 <https://www.theviolenceproject.org/mass-shooter-database/>, updated May
26 14, 2022.
- 27 i) “Defensive Gun Uses in the U.S.,” The Heritage Foundation, as of
28 October 7, 2022,

<https://datavisualizations.heritage.org/firearms/defensive-gun-uses-in-the-us>.

- j) Academic articles on mass shootings;
- k) Legal decisions on gun-related issues; and
- l) Academic literature and textbooks on statistics.

IV. BACKGROUND

8. California law “generally prohibits” the manufacture, distribution and possession of certain firearms, defined as assault weapons (“Assault Weapons”).⁵ According to California law, firearms qualify as Assault Weapons based on either their “make and model” or on certain “features.”⁶ Examples of Assault Weapons include the “UZI,” “AK series” and “Colt AR-15 series” rifles, and the “Bushmaster XM15.”⁷ A semiautomatic, centerfire rifle (without a fixed magazine) can also be considered an Assault Weapon if it includes certain features, including a “pistol grip,” a “thumbhole stock,” a “flash suppressor,” or an “adjustable” (telescoping or folding) stock.⁸ It is my understanding that Plaintiffs are challenging certain provisions of California law related to rifles that would qualify as Assault Weapons under California Penal Code sections 30510(a), 30515(a)(1)(A-C) and (E-F), and 30515(a)(3) and section 5499 of title 11 of the California Code of Regulations (“Assault Rifles”).⁹ Therefore, for the purpose of this report, the term

⁵ Complaint, ¶¶19-21. See, also, California Department of Justice: “What is considered an assault weapon under California law?” and “What are AK and AR-15 series weapons?” <https://oag.ca.gov/firearms/regagunfaqs>, accessed October 25, 2018.

⁶ Complaint, ¶2.

⁷ California Penal Code section 30510 and California Code of Regulations, title 11, section 5499. See, also, Complaint, ¶¶23,24,26.

⁸ California Penal Code section 30515. See, also, Complaint, ¶7.

⁹ Complaint, ¶4.

1 Assault Rifles does not include pistols, shotguns, rifles with fixed magazines, or
2 rifles that are equipped with a grenade launcher.

3 **V. FINDINGS**

4 **A. Use of Guns in Self-Defense**

5 **1. The number of rounds used by individuals in self-defense**

6 9. The number of rounds commonly needed by individuals to defend
7 themselves cannot be practically or ethically determined with controlled scientific
8 experiments and there is no source that systematically tracks or maintains data on
9 the number of rounds fired by individuals in self-defense. Due to these limitations, I
10 have analyzed available data sources to estimate the number of rounds fired by
11 individuals to defend themselves. In particular, I have analyzed data from the NRA
12 Institute for Legislative Action, as well as my own study of news reports on
13 incidents of self-defense with a firearm. In all, I have analyzed almost 1,000
14 incidents of self-defense with a firearm and found that it is rare for a person, when
15 using a firearm in self-defense, to fire more than ten rounds.

16 10. The NRA maintains a database of “Armed Citizen” stories describing
17 private citizens who have successfully defended themselves, or others, using a
18 firearm (“NRA Armed Citizen database”). According to the NRA, the “Armed
19 Citizen” stories “highlight accounts of law-abiding gun owners in America using
20 their Second Amendment rights to defend self, home and family.”¹⁰ Although the
21 methodology used to compile the NRA Armed Citizen database of stories is not
22 explicitly detailed by the NRA, the NRA Armed Citizen database is a useful data
23 source in this matter for at least three reasons. First, the Armed Citizen database
24 was the largest collection of accounts of citizen self-defense compiled by others
25

27 ¹⁰ NRA Institute for Legislative Action, Armed Citizens,
28 <https://www.nraila.org/gun-laws/armed-citizen/>, accessed May 28, 2017.

1 that I was able to find.¹¹ Second, the incidents listed in the Armed Citizen database
2 highlight the very conduct that Plaintiffs claim the California law impedes (*i.e.*, the
3 use of firearms by law-abiding citizens for self-defense).¹² Third, the Armed
4 Citizen database is compiled by an entity that actively opposes restrictions on
5 magazine capacity and restrictions on the possession and use of firearms in
6 general.¹³ In light of the positions taken by the entity compiling the data, I would
7 expect that any selection bias would be in favor of stories that put use of guns in
8 self-defense in the best possible light and might highlight the apparent need of guns
9 and/or multiple rounds in self-defense incidents.

10 11. My team and I performed an analysis of incidents in the NRA Armed
11 Citizen database that occurred between January 2011 and May 2017.¹⁴ For each
12 incident, the city/county, state, venue (whether the incident occurred on the street,
13 in the home, or elsewhere) and the number of shots fired were tabulated.¹⁵ The
14 information was gathered for each incident from both the NRA synopsis and, where

16 ¹¹ Note that in 2020, after the time my research was conducted, The Heritage
17 Foundation began an online database of its own sample of defensive gun use
18 incidents (<https://datavisualizations.heritage.org/firearms/defensive-gun-uses-in-the-us>).

19 ¹² Complaint, ¶¶1,4.

20 ¹³ See, for example, NRA Civil Rights Defense Fund website,
21 <http://www.nradefensefund.org/current-litigation.aspx>, accessed October 12, 2018.

22 ¹⁴ My collection and coding of the NRA Armed Citizen stories was last
23 performed in mid-2017.

24 ¹⁵ The following incidents were excluded from the analysis: (1) duplicate
25 incidents, (2) wild animal attacks, and (3) one incident where the supposed victim
26 later pleaded guilty to covering up a murder. When the exact number of shots fired
27 was not specified, we used the average for the most relevant incidents with known
28 number of shots. For example, if the story stated that “shots were fired” this would
indicate that at least two shots were fired and thus we used the average number of
shots fired in all incidents in which two or more shots were fired and the number of
shots was specified.

1 available, an additional news story. An additional news story was found for over
2 95% of the incidents in the NRA Armed Citizen database.

3 12. According to this analysis of incidents in the NRA Armed Citizen
4 database, it is rare for a person, when using firearms in self-defense, to fire more
5 than ten rounds. Out of 736 incidents, there were two incidents (0.3% of all
6 incidents), in which the defender was reported to have fired more than 10 bullets.¹⁶
7 Defenders fired 2.2 shots on average.¹⁷ In 18.2% of incidents, the defender did not
8 fire any shots. These incidents highlight the fact that in many instances defenders
9 are able to defend themselves without firing any shots. For example, according to
10 one of the incidents in the NRA Armed Citizen Database:

11 “A man entered a Shell station in New Orleans, La. and attempted to rob a
12 cashier, by claiming he was carrying a gun. The cashier responded by
13 retrieving a gun and leveling it at the thief, prompting the criminal to flee.
(The Times Picayune, New Orleans, La. 09/02/15)”¹⁸

14 13. For incidents occurring in the home (56% of total), defenders fired an
15 average of 2.1 shots, and fired no shots in 16.1% of incidents. For incidents
16 occurring outside the home (44%) of total, defenders fired an average of 2.2 shots,
17 and fired no shots in 20.9% of incidents.¹⁹ The table below summarizes these
18 findings:

20 ¹⁶ Note that the only two incidents with more than 10 bullets fired were
21 added to the NRA Armed Citizen database in 2016 and 2017 after an earlier
22 analysis that I had conducted of the database had been submitted to and cited by the
Court in *Kolbe v. O'Malley*, Case No. CCB-13-2841 (Dkt. 79).

23 ¹⁷ Note that the analysis is focused on shots fired when using a gun in self-
24 defense and therefore the average includes instances when no shots are fired. If one
25 calculates the average excluding incidents of self-defense with a gun without firing
shots, the average is still low, 2.6 shots when at least one shot is fired.

26 ¹⁸ “Gas station clerk scares off robber,” NRA-ILA Armed Citizen, September
27 9, 2015.

28 ¹⁹ A separate study of incidents in the NRA Armed Citizen database for an
(continued...)

**Number of Shots Fired in Self-Defense
Based on NRA Armed Citizen Incidents in the United States
January 2011 - May 2017**

	Shots Fired by Individual in Self-Defense		
	Overall	Incidents in Home	Outside the Home
Average Shots Fired	2.2	2.1	2.2
Number of Incidents with No Shots Fired	134	66	68
Percent of Incidents with No Shots Fired	18.2%	16.1%	20.9%
Number of Incidents with >10 Shots Fired	2	2	0
Percent of Incidents with >10 Shots Fired	0.3%	0.5%	0.0%

Notes and Sources:

Data from NRA Armed Citizen database covering 736 incidents (of which 411 were in the home) from January 2011 through May 2017. Excludes duplicate incidents, wild animal attacks, and one incident where the supposed victim later pleaded guilty to covering up a murder.

14. We also performed the same analysis of the NRA Armed Citizen database limited to incidents that occurred in California. According to this analysis, defenders in California fired 2.0 shots on average. Out of 47 incidents, there were no incidents in which the defender was reported to have fired more than 10 bullets. In 27.7% of incidents, the defender did not fire any shots, and simply threatened the offender with a gun. For incidents occurring in the home (60% of total), defenders fired an average of 1.9 shots, and fired no shots in 32.1% of incidents. For incidents occurring outside the home (40% of total), defenders fired an average of 2.2 shots and fired no shots in 21.1% of incidents. The table below summarizes these findings for California:

earlier period (the five-year period from 1997 through 2001) found similar results. Specifically, this study found that, on average, 2.2 shots were fired by defenders and that in 28% of incidents of armed citizens defending themselves the individuals fired no shots at all. See, Claude Werner, "The Armed Citizen – A Five Year Analysis," <http://gunssaveslives.net/self-defense/analysis-of-five-years-of-armed-encounters-with-data-tables>, accessed January 10, 2014.

**Number of Shots Fired in Self-Defense
Based on NRA Armed Citizen Incidents in California
January 2011 - May 2017**

	Shots Fired by Individual in Self-Defense		
	Overall	Incidents in Home	Outside the Home
Average Shots Fired	2.0	1.9	2.2
Number of Incidents with No Shots Fired	13	9	4
Percent of Incidents with No Shots Fired	27.7%	32.1%	21.05%
Number of Incidents with >10 Shots Fired	0	0	0
Percent of Incidents with >10 Shots Fired	0.0%	0.0%	0.0%

Notes and Sources:

Data from NRA Armed Citizen database covering 47 incidents in California (of which 28 were in the home) from January 2011 through May 2017. Excludes repeat stories, wild animal attacks and one incident where the supposed victim later pleaded guilty to covering up a murder.

15. In addition to our analysis of incidents in the NRA Armed Citizen database, we performed a systematic, scientific study of news reports on incidents of self-defense with a firearm in the home, focusing on the same types of incidents as the NRA stories and covering the same time period.²⁰

16. To identify relevant news stories to include in our analysis, we performed a comprehensive search of published news stories using Factiva, an online news reporting service and archive owned by Dow Jones, Inc. that aggregates news content from nearly 33,000 sources.²¹ The search was designed to

²⁰ This analysis was initially conducted to research issues regarding self-defense in the home, which was a focus before the 2022 *New York State Rifle & Pistol Association v. Bruen* Supreme Court decision. The analysis of the NRA Armed Citizen incidents described above indicates that the number of shots fired in self-defense outside the home is similar to those inside the home.

²¹ Factiva is often used for academic research. For example, a search for the term “Factiva” on Google Scholar yields over 28,000 results. As another example, a search on Westlaw yields at least 83 expert reports that conducted news searches using Factiva.

1 return stories about the types of incidents that are the focus of the NRA Armed
2 Citizen database and that Plaintiffs claim the California law impedes – in particular,
3 the use of firearms for self-defense.²² The search identified all stories that contained
4 the following keywords in the headline or lead paragraph: one or more words from
5 “gun,” “shot,” “shoot,” “fire,” or “arm” (including variations on these keywords,
6 such as “shooting” or “armed”), plus one or more words from “broke in,” “break
7 in,” “broken into,” “breaking into,” “burglar,” “intruder,” or “invader” (including
8 variations on these keywords) and one or more words from “home,” “apartment,”
9 or “property” (including variations on these keywords).²³ The search criteria match
10 approximately 90% of the NRA stories on self-defense with a firearm in the home,
11 and an analysis of the 10% of stories that are not returned by the search shows that
12 the typical number of shots fired in these incidents was no different than in other
13 incidents. The search covered the same period used in our analysis of incidents in
14 the NRA Armed Citizen database (January 2011 to May 2017). The region for the
15 Factiva search was set to “United States.” The search returned approximately
16 35,000 stories for the period January 2011 to May 2017.²⁴

17
18 ²² NRA Institute for Legislative Action, Armed Citizens,
19 <https://www.nraila.org/gun-laws/armed-citizen/>, accessed May 28, 2017. See, also,
20 Complaint, ¶¶1,4.

21 ²³ The precise search string used was: (gun* or shot* or shoot* or fire* or
22 arm*) and (“broke in” or “break in” or “broken into” or “breaking into” or burglar*
23 or intrud* or inva*) and (home* or “apartment” or “property”). An asterisk denotes
24 a wildcard, meaning the search includes words which have any letters in place of
the asterisk. For example, a search for shoot* would return results including
“shoots,” “shooter” and “shooting.” The search excluded duplicate stories classified
as “similar” on Factiva.

25 ²⁴ The effect of using alternative keywords was considered. For example,
26 removing the second category (“broke in” or “break in” or “broken into” or
27 “breaking into” or burglar* or intrud* or inva*) and including incidents in which
28 the assailant was already inside the home and/or was known to the victim was
considered. *A priori*, there was no reason to believe that a larger number of shots
(continued...)

1 17. Using a random number generator, a random sample of 200 stories
2 was selected for each calendar year, yielding 1,400 stories in total.²⁵ These 1,400
3 stories were reviewed to identify those stories that were relevant to the analysis, *i.e.*,
4 incidents of self-defense with a firearm in or near the home. This methodology
5 yielded a random selection of 200 news stories describing incidents of self-defense
6 with a firearm in the home out of a population of approximately 4,800 relevant
7 stories.²⁶ Thus, we found that out of the over 70 million news stories aggregated by
8 Factiva between January 2011 and May 2017, approximately 4,800 news stories
9 were on incidents of self-defense with a firearm in the home. We analyzed a
10 random selection of 200 of these stories.

11 18. For each news story, the city/county, state and number of shots fired
12 were tabulated. When tabulating the number of shots fired, we used the same
13 methodology as we used to analyze stories in the NRA Armed Citizen database.²⁷
14 We then identified other stories describing the same incident on Factiva based on
15

16 _____
17 would be used in these incidents and based on an analysis of the NRA stories we
18 found that the number of shots fired in incidents when defending against someone
already in the home was not different than those with an intruder.

19 ²⁵ The random numbers were generated by sampling with replacement.

20 ²⁶ The approximately 4,800 relevant news stories were estimated by
21 calculating the proportion of relevant news stories from the 200 randomly selected
22 stories each year and applying that proportion to the number of results returned by
the search for each year of the analysis. For example, in 2017, 33 out of 200 (17%)
23 randomly selected news stories involved incidents of self-defense with a firearm in
the home. Applying that proportion to the 1,595 results from the Factiva search in
24 2017 yields 263 relevant news stories in 2017. This process was repeated every
year to arrive at a total of 4,841 relevant news stories from 2011-2017.

25 ²⁷ When the exact number of shots fired was not specified, we used the
26 average for the most relevant incidents with known number of shots. For example,
27 if the story stated that “shots were fired” this would indicate that at least two shots
28 were fired and thus we used the average number of shots fired in all incidents in
which two or more shots were fired and the number of shots was specified.

1 the date, location and other identifying information, and recorded the number of
2 times that each incident was covered by Factiva news stories.

3 19. To determine the average number of shots fired per *incident*, we first
4 determined the average number of shots fired per *story* and then analyzed the
5 number of stories per incident. According to our study of a random selection from
6 approximately 4,800 relevant stories on Factiva describing incidents of self-defense
7 with a firearm in the home, the average number of shots fired per story was 2.61.
8 This is not a measure of the average shots fired *per incident*, however, because the
9 number of stories covering an incident varies, and the variation is not independent
10 of the number of shots fired. We found that there was a statistically significant
11 relationship between the number of shots fired in an incident and the number of
12 news stories covering an incident.²⁸ We found that on average the more shots fired
13 in a defensive gun use incident, the greater the number of stories covering an
14 incident. For example, as shown in the table below, we found that incidents in
15 Factiva news stories with zero shots fired were covered on average by 1.8 news
16 stories, while incidents with six or more shots fired were covered on average by
17 10.4 different news stories.

23 ²⁸ Based on a linear regression of the number of news stories as a function of
24 the number of shots fired, the results were statistically significant at the 1% level
25 (more stringent than the 5% level commonly used by academics and accepted by
26 courts. See, for example, Freedman, David A., and David H. Kaye, "Reference
27 Guide on Statistics," *Reference Manual on Scientific Evidence* (Washington, D.C.:
28 The National Academies Press, 3rd ed., 2011), pp. 211-302, and Fisher, Franklin
M., "Multiple Regression in Legal Proceedings," 80 *Columbia Law Review* 702
(1980).)

**Average Number of News Stories by Number of Shots Fired
In Factiva Stories on Incidents of Self-Defense with a Firearm
January 2011 - May 2017**

Number of Shots Fired By Defender	Average Number of News Stories
0	1.8
1 to 2	2.8
3 to 5	3.8
6 or more	10.4

Notes and Sources:

Based on news stories describing defensive gun use in a random selection of Factiva stories between 2011 and May 2017 using the search string: (gun* or shot* or shoot* or fire* or arm*) and ("broke in" or "break in" or "broken into" or "breaking into" or burglar* or intrud* or inva*) and (home* or "apartment" or "property"), with region set to "United States" and excluding duplicate stories classified as "similar" on Factiva. Methodology for tabulation of shots fired as per footnote 16.

20. After adjusting for this disparity in news coverage, we find that the average number of shots fired per incident covered is 2.34.²⁹ Note that this adjustment does not take into account the fact that some defensive gun use incidents may not be picked up by *any* news story. Given the observed relationship that there are more news stories when there are more shots fired, one would expect that the

²⁹ The adjustment reflects the probability that a news story on a particular incident would be selected at random from the total population of news stories on incidents of self-defense with a firearm in the home. The formula used for the adjustment is:

$$\frac{\sum_{i=1}^n (Shots\ Fired_i \times \frac{R_i}{C_i})}{\sum_{i=1}^n (\frac{R_i}{C_i})}$$

where:

n = random selection of news stories on incidents of self-defense with a firearm in the home

R_i = number of search results on Factiva in the calendar year of incident i

C_i = number of news stories covering incident i

incidents that are not written about would on average have fewer shots than those with news stories. Therefore, the expectation is that these results, even after the adjustment, are biased upward (*i.e.*, estimating too high an average number of shots and underestimating the percent of incidents in which no shots were fired).

21. As shown in the table below, according to the study of Factiva news stories, in 11.6% of incidents the defender did not fire any shots, and simply threatened the offender with a gun. In 97.3% of incidents the defender fired 5 or fewer shots. There were no incidents where the defender was reported to have fired more than 10 bullets.

**Number of Shots Fired in Self-Defense in the Home
Based on Random Selection of News Stories in Factiva
January 2011 - May 2017**

Estimated population of news reports in Factiva on self-defense with a firearm in the home	4,841
Random selection of news reports	200
Average Number of Shots Fired	2.34
Median Number of Shots Fired	2.03
Number of Incidents with No Shots Fired	23
Percent of Incidents with No Shots Fired	11.6%
Number of Incidents with ≤5 Shots Fired	195
Percent of Incidents with ≤5 Shots Fired	97.3%
Number of Incidents with >10 Shots Fired	0
Percent of Incidents with >10 Shots Fired	0.0%

Notes and Sources:

Based on news stories describing defensive gun use in a random selection of Factiva stories between 2011 and May 2017 using the search string: (gun* or shot* or shoot* or fire* or arm*) and ("broke in" or "break in" or "broken into" or "breaking into" or burglar* or intrud* or inva*) and (home* or "apartment" or "property"), with region set to "United States" and excluding duplicate stories classified as "similar" on Factiva. Methodology for tabulation of shots fired as per footnote 16. Number of incidents probability-weighted as per footnote 18.

1 22. In sum, an analysis of incidents in the NRA Armed Citizen database,
2 as well as our own study of a random sample from approximately 4,800 news
3 stories describing incidents of self-defense with a firearm, indicates that it is rare
4 for a person, when using a firearm in self-defense, to fire more than ten rounds.

5 **2. Percent of incidents in which rifles were used in self-**
6 **defense according to Heritage Defensive Gun Use Database**

7 23. I have been asked to analyze the Heritage Foundation's "Defensive
8 Gun Uses in the U.S." database ("Heritage DGU Database"), a database of
9 defensive gun incidents that was first published after the 2018 Allen Report.³⁰ In
10 particular, I have been asked to analyze the percent of incidents in which rifles were
11 used in self-defense according to the Heritage DGU Database. The analysis of the
12 Heritage DGU Database indicates that it is rare for a rifle to be used in self-defense.

13 24. The Heritage Foundation is a think tank focused on "formulat[ing] and
14 promot[ing] public policies based on the principles of free enterprise, limited
15 government, individual freedom, traditional American values, and a strong national
16 defense."³¹ According to The Heritage Foundation, "[t]he right of the people to
17 keep and bear arms is a fundamental part of American liberty, serving as an
18 important individual defense against crime and a collective defense against
19 tyranny."³²

20 25. In April 2020, The Heritage Foundation began publishing and
21 periodically updating a database of news stories describing incidents in the U.S. in
22
23

24 ³⁰ "Defensive Gun Uses in the U.S.," *The Heritage Foundation*, as of
25 October 7, 2022, <https://datavisualizations.heritage.org/firearms/defensive-gun-uses-in-the-us>.

26 ³¹ "About Heritage," *The Heritage Foundation*,
27 <https://www.heritage.org/about-heritage/mission>.

28 ³² "Firearms," *The Heritage Foundation*, <https://www.heritage.org/firearms>.

1 which individuals purportedly defended themselves using firearms.³³ The Heritage
2 Foundation notes that its database is not comprehensive but meant to “highlight”
3 stories of successful self-defense.^{34,35}

4 26. As of October 7, 2022, the Heritage DGU Database included 2,714
5 incidents from January 1, 2019 through October 6, 2022.³⁶ The Heritage DGU
6 Database codes the following information for each incident:³⁷

- 7
- 8 • Date of the incident;
 - 9 • Website link to the news story;
 - 10 • Location (city and state);
 - 11 • Context (e.g., domestic violence, home invasion, robbery, etc.);
 - 12 • Whether the defender had a concealed-carry permit;
 - 13 • Whether there were multiple assailants;
 - 14 • Whether shots were fired; and
 - 15 • Firearm type (handgun, shotgun, rifle, pellet rifle, long gun, or
16 unknown).³⁸

17 27. I performed an analysis of all 2,714 incidents in the Heritage DGU
18 Database as of October 7, 2022 to determine what number and percent of the
19 incidents involved a rifle. I found there were 51 incidents indicating a rifle was
20 involved. These 51 incidents represent 2% of all incidents in the database and 4%

21 ³³ “Defensive Gun Uses in the U.S.,” *The Heritage Foundation*.

22 ³⁴ “Defensive Gun Uses in the U.S.,” *The Heritage Foundation*.

23 ³⁵ Note that a review of the news stories cited in the database indicates that a
24 number of the incidents may not involve individuals defending themselves. For
25 example, in one incident (“Two Burglary Suspects Caught By Victim’s Brother
26 And Friend, Held At Gunpoint For Police,” *5NewsOnline*, February 11, 2019), a
27 homeowner’s brother and friend appear to have found and apprehended burglars on
28 the roadside.

³⁶ “Defensive Gun Uses in the U.S.,” *The Heritage Foundation*.

³⁷ “Defensive Gun Uses in the U.S.,” *The Heritage Foundation*.

³⁸ A review of the data and linked news stories from the Heritage DGU
Database indicates that the firearm type corresponds to the firearm associated with
the defender.

of incidents with a known gun type.³⁹ The table below shows the breakdown of incidents by coded firearm type for the 2,714 incidents.

The Heritage Foundation Defensive Gun Use Database			
Firearm Type	Incidents¹	% of Total	% of Known
(1)	(2)	(3)	(4)
Handgun	1,113	41%	90%
Shotgun	78	3%	6%
Rifle	51	2%	4%
Long Gun	1	0%	0%
Pellet Rifle	1	0%	0%
Unknown	1,473	54%	
Total known:	1,241		
Total:	2,714		
Source:			
"Defensive Gun Uses in the U.S.," <i>The Heritage Foundation</i> .			
Data as of October 7, 2022.			
¹ Note that three incidents are coded as having more than one firearm type and thus the sum by firearm type is larger than the total number of incidents.			

28. I conducted the same analysis of the Heritage DGU Database excluding incidents that occurred in states that have restrictions on assault weapons. In particular, I excluded incidents in California, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York, as well as Washington D.C.⁴⁰ In states

³⁹ This analysis is based on The Heritage Foundation's coding of these incidents. We have not independently verified the coding of these incidents.

⁴⁰ See, "Assault Weapons," *Giffords Law Center*, <https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/assault-weapons/>. Delaware is not excluded since restrictions in Delaware were enacted in June 2022. See, "Governor Carney Signs Package of Gun Safety Legislation," *Delaware.gov*, June 30, 2022, <https://news.delaware.gov/2022/06/30/governor-carney-signs-package-of-gun-safety-legislation/>.

without assault weapons restrictions, the Heritage DGU Database has 48 incidents indicating a rifle was involved. These 48 incidents represent 2% of incidents in these states and 4% of incidents with a known gun type in these states. The table below shows the breakdown of incidents by coded firearm type for states that do not restrict assault weapons.

**The Heritage Foundation
Defensive Gun Use Database
States Without Assault Weapon Restrictions**

Firearm Type	Incidents¹	% of Total	% of Known
(1)	(2)	(3)	(4)
Handgun	1,033	41%	90%
Shotgun	63	3%	6%
Rifle	48	2%	4%
Long Gun	0	0%	0%
Pellet Rifle	1	0%	0%
Unknown	1,357	54%	
Total known:	1,142		
Total:	2,499		

Source:

"Defensive Gun Uses in the U.S.," *The Heritage Foundation*. Data as of October 7, 2022. Excludes the following states with assault weapon restrictions: California, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York as well as Washington D.C. Classification from Giffords Law Center. Incidents in Delaware not excluded as restrictions were enacted in June 2022.

¹ Note that three incidents are coded as having more than one firearm type and thus the sum by firearm type is larger than the total number of incidents.

B. Public Mass Shootings

29. We analyzed the use of Assault Weapons and large-capacity magazines in public mass shootings using four sources for identifying public mass shootings: Mother Jones,⁴¹ the Citizens Crime Commission of New York City,⁴² the Washington Post⁴³ and the Violence Project.^{44, 45} The analysis focused on public mass shootings because it is my understanding that the state of California is concerned about public mass shootings and enacted the challenged law, in part, to address the problem of public mass shootings.

⁴¹ “US Mass Shootings, 1982-2022: Data From Mother Jones’ Investigation,” Mother Jones, updated November 23, 2022, <http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data>.

⁴² “Mayhem Multiplied: Mass Shooters and Assault Weapons,” Citizens Crime Commission of New York City, February 2018 update. Additional details on the mass shootings were obtained from an earlier source by the Citizens Crime Commission. “Mass Shooting Incidents in America (1984-2012),” Citizens Crime Commission of New York City, <http://www.nycrimecommission.org/mass-shooting-incidents-america.php>, accessed June 1, 2017.

⁴³ “The terrible numbers that grow with each mass shooting,” The Washington Post, updated May 12, 2021.

⁴⁴ “Mass Shooter Database,” The Violence Project, <https://www.theviolenceproject.org/mass-shooter-database/>, updated May 14, 2022.

⁴⁵ When I began research in 2013 on mass shootings, I found Mother Jones and Citizens Crime Commission to maintain the most comprehensive lists of relevant mass shootings. More recently, two additional sources, the Washington Post and The Violence Project, have compiled lists of public mass shootings. The Violence Project began work on its mass shootings database in September 2017 and its database first went online in November 2019, while the Washington Post first published its mass shootings database in February 14, 2018. There is substantial overlap between the mass shootings in all four sources. For example, the Mother Jones data contains 93% of the mass shootings in the Citizens Crime Commission data for the years covered by both data sources, 1984 to 2016, while the Washington Post contains 94% of the mass shootings in The Violence Project data for the years covered by both data sources, 1966 to 2019.

1 30. The type of incident considered a mass shooting is generally consistent
2 across the four sources. In particular, all four sources consider an event a mass
3 shooting if four or more people were killed in a public place in one incident, and
4 exclude incidents involving other criminal activity such as a robbery.⁴⁶

5 ⁴⁶ Citizen Crime Commission describes a mass shooting as “four or more
6 victims killed” in “a public place” that were “unrelated to another crime (e.g.,
7 robbery, domestic violence).” Citizen Crime notes that its sources include “news
8 reports and lists created by government entities and advocacy groups.” “Mayhem
9 Multiplied: Mass Shooters and Assault Weapons,” Citizens Crime Commission of
New York City, February 2018 update.

10 Mother Jones describes a mass shooting as “indiscriminate rampages in
11 public places resulting in four or more victims killed by the attacker,” excluding
12 “shootings stemming from more conventionally motivated crimes such as armed
13 robbery or gang violence.” Although in January 2013 Mother Jones changed its
14 definition of mass shooting to include instances when three or more people were
15 killed, for this declaration we only analyzed mass shootings where four or more
16 were killed to be consistent with the definition of the other three sources. “A Guide
17 to Mass Shootings in America,” Mother Jones, updated November 23, 2022,
18 <http://www.motherjones.com/politics/2012/07/mass-shootings-map>. See also,
19 “What Exactly is a Mass Shooting,” Mother Jones, August 24, 2012,
20 <http://www.motherjones.com/mojo/2012/08/what-is-a-mass-shooting>.

21 The Washington Post source describes a mass shooting as “four or more
22 people were killed, usually by a lone shooter” excluding “shootings tied to
23 robberies that went awry” and “domestic shootings that took place exclusively in
24 private homes.” A The Washington Post notes that its sources include “Grant
25 Duwe, author of ‘Mass Murder in the United States: A History,’ Mother Jones and
26 Washington Post research,” as well as “Violence Policy Center, Gun Violence
27 Archive; FBI 2014 Study of Active Shooter Incidents; published reports.” “The
28 terrible numbers that grow with each mass shooting,”
The Washington Post, updated May 12,
2021, <https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-america/>.

29 The Violence Project indicates that it uses the Congressional Research
30 Service definition of a mass shooting: “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
(continued...)

1 31. Each of the four sources contains data on mass shootings covering
2 different time periods. The Mother Jones data covers 112 mass shootings from
3 1982 to October 13, 2022,⁴⁷ the Citizens Crime Commission data covers 80 mass
4 shootings from 1984 to February 2018,⁴⁸ the Washington Post data covers 185 mass
5 shootings from 1966 to May 12, 2021,⁴⁹ and The Violence Project data covers 182
6 mass shootings from 1966 to May 14, 2022.^{50, 51}

7
8 other public settings), and the murders are not attributable to any other underlying
9 criminal activity or commonplace circumstance (armed robbery, criminal
10 competition, insurance fraud, argument, or romantic triangle).” The Violence
11 Project notes that its sources include “Primary Sources: Written journals /
12 manifestos / suicide notes etc., Social media and blog posts, Audio and video
13 recordings, Interview transcripts, Personal correspondence with perpetrators” as
14 well as “Secondary Sources (all publicly available): Media (television, newspapers,
15 magazines), Documentary films, Biographies, Monographs, Peer-reviewed journal
16 articles, Court transcripts, Law Enforcement records, Medical records, School
17 records, Autopsy reports.” “Mass Shooter
18 Database,” The Violence Project, <https://www.theviolenceproject.org/methodology/>
19 , accessed January 17, 2020.

20 ⁴⁷ “A Guide to Mass Shootings in America,” Mother Jones, updated
21 November 23, 2022, [http://www.motherjones.com/politics/2012/07/mass-](http://www.motherjones.com/politics/2012/07/mass-shootings-map)
22 [shootings-map](http://www.motherjones.com/politics/2012/07/mass-shootings-map). Excludes mass shootings where only three people were killed. Note
23 this analysis of the Mother Jones data may not match other analyses because
24 Mother Jones periodically updates its historical data.

25 ⁴⁸ “Mayhem Multiplied: Mass Shooters and Assault Weapons,” *Citizens*
26 *Crime Commission of New York City*, February 2018 update.

27 ⁴⁹ “The terrible numbers that grow with each mass shooting,” *The*
28 *Washington Post*, updated May 12,
2021, [https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-](https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-america/)
[america/](https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-america/).

⁵⁰ “Mass Shooter Database,” *The Violence Project* [https://www.theviolencepr](https://www.theviolenceproject.org/mass-shooter-database/)
[oject.org/mass-shooter-database/](https://www.theviolenceproject.org/mass-shooter-database/), updated May 14, 2022.

⁵¹ Note that I have updated this mass shooting analysis to include more recent
incidents, as well as more recently available details. In my 2017 declaration in
Virginia Duncan et al. v. California Attorney General, I included data on mass
shootings through April 2017. In my 2018 declaration in *Rupp v. California*
(continued...)

32. Note that the two more recently compiled sources of mass shootings, the Washington Post and The Violence Project, include additional mass shootings that were not covered by either Mother Jones or Citizens Crime Commission. In general, we found that these additional mass shootings were less covered by the media and involved fewer fatalities and/or injuries than the ones previously identified by Mother Jones or Citizens Crime Commission. For example, using the mass shooting data for the period 1982 through 2019, we found that the median number of news stories for a mass shooting included in Mother Jones and/or Citizen Crime Commission was 317, while the median for the additional mass shootings identified in the Washington Post and/or The Violence Project was 28.⁵² In addition, using the mass shooting data through 2019, we found an average of 21 fatalities or injuries for a mass shooting included in Mother Jones and/or Citizen Crime Commission, while only 6 fatalities or injuries for the additional mass shootings identified in the Washington Post and/or The Violence Project.

Attorney General, I updated the analysis to include data on mass shootings through September 2018. The analyses in both of these declarations included mass shootings only from Mother Jones and the Citizen Crime Commission. In my 2020 declaration in *James Miller et al. v. California Attorney General*, I updated the analysis to include mass shootings through December 2019 and added mass shootings from two more sources, the Washington Post and the Violence Project. The number of mass shootings, as well as some details about the shootings, are not identical across these declarations for three main reasons. First, I have updated the analysis to include more recent incidents as well as more recently available details. Second, starting in 2020, I added two more sources (Washington Post and Violence Project), which include additional mass shootings and details not included in the initial sources. Third, even though Mother Jones included instances when three or more people were killed, for my declarations and reports starting in 2020, I only included mass shootings where four or more were killed to be consistent with the definition of the other three sources.

⁵² The search was conducted over all published news stories on Factiva. The search was based on the shooter's name and the location of the incident over the period from one week prior to three months following each mass shooting.

1 33. We combined the data from the four sources for the period 1982
2 through October 2022, and searched news stories on each mass shooting to obtain
3 additional details on the types of weapons used as well as data on shots fired where
4 available. We compared the details on the weapons used in each shooting to the list
5 of prohibited firearms and features specified in California law to identify, based on
6 this publicly available information, which mass shootings involved the use of
7 Assault Weapons or more specifically Assault Rifles. In addition, we identified,
8 based on this publicly available information, which mass shootings involved the use
9 of large-capacity magazines. See attached Exhibit B for a summary of the combined
10 data, and Exhibit C for a summary of the weapons used in each public mass
11 shooting based on Mother Jones, Citizens Crime Commission, the Washington
12 Post, the Violence Project, and news reports.⁵³

13 **1. Use of Assault Weapons in public mass shootings**

14 34. Based on the 179 mass shootings through October 2022, we found that
15 Assault Weapons are often used in public mass shootings. Whether an Assault
16 Weapon was used in a mass shooting can be determined in 153 out of the 179
17 incidents (85%) considered in this analysis. Out of these 153 mass shootings, 36 (or
18 24%) involved Assault Weapons. Even assuming the mass shootings where it is not
19 known whether an Assault Weapon was used *all* did not involve an Assault
20 Weapon, 36 out of 179 mass shootings, or 20%, involved Assault Weapons.

21 35. In addition, in 32 of the 36 mass shootings that involved an Assault
22 Weapon (89%), the Assault Weapon used was an Assault Rifle (rather than a pistol
23 or shotgun). In all, an Assault Rifle was used in 32 (or 18%) of the 179 public mass
24 shootings analyzed.

25
26
27 ⁵³ Note that the Citizens Crime Commission data was last updated in
28 February 2018 and the Washington Post was last updated in May 2021.

1 36. Based on our analysis, casualties were higher in the mass shootings
2 that involved Assault Weapons than in other mass shootings. In particular, we
3 found an average number of fatalities or injuries of 36 per mass shooting with an
4 Assault Weapon versus 10 for those without. Focusing on just fatalities, we found
5 an average number of fatalities of 12 per mass shooting with an Assault Weapon
6 versus 6 for those without. (See table below.)

7 37. We also found that casualties were higher in public mass shootings
8 that involved Assault *Rifles* than in mass shootings not involving any kind of
9 Assault Weapon. In particular, we found an average number of fatalities or injuries
10 of 38 per mass shooting that involved Assault Rifles versus 10 for those that did not
11 involve any kind of Assault Weapon. Focusing on just fatalities, we found an
12 average number of fatalities of 12 per mass shooting with an Assault Rifle versus 6
13 for those that did not involve any kind of Assault Weapon. (See table below.)

14 **2. Use of large-capacity magazines in public mass shootings**

15 38. Based on the 179 mass shootings through October 2022, we found that
16 large-capacity magazines (those with a capacity to hold more than 10 rounds of
17 ammunition) are often used in public mass shootings. Magazine capacity is known
18 in 115 out of the 179 mass shootings (or 64%) considered in this analysis. Out of
19 the 115 mass shootings with known magazine capacity, 73 (or 63%) involved large-
20 capacity magazines. Even assuming the mass shootings with unknown magazine
21 capacity *all* did not involve large-capacity magazines, 73 out of 179 mass shootings
22 or 41% of mass shootings involved large capacity magazines. (See table below.)

23 39. Based on our analysis, casualties were higher in the mass shootings
24 that involved weapons with large-capacity magazines than in other mass shootings.
25 In particular, we found an average number of fatalities or injuries of 25 per mass
26 shooting with a large-capacity magazine versus 9 for those without. Focusing on
27 just fatalities, we found an average number of fatalities of 10 per mass shooting
28 with a large-capacity magazine versus 6 for those without. (See table below.)

1 40. In addition, we found that casualties were higher in the mass shootings
2 that involved both Assault Weapons *and* large-capacity magazines. In particular,
3 we found an average number of fatalities or injuries of 40 per mass shooting with
4 both an Assault Weapon and a large-capacity magazine versus 8 for those without
5 either. Focusing on just fatalities, we found an average number of fatalities of 13
6 per mass shooting with both an Assault Weapon and a large-capacity magazine
7 versus 6 for those without either. (See table below.)

8 41. For mass shootings that involved both Assault *Rifles* and large-
9 capacity magazines, we found an average number of fatalities or injuries of 43 per
10 mass shooting with both an Assault Rifle and a large-capacity magazine versus 8
11 for mass shootings without either. Focusing on just fatalities, we found an average
12 number of fatalities of 13 per mass shooting with both versus 6 for those without
13 either. (See table below.)
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**Numbers of Fatalities and Injuries in Public Mass Shootings
1982 - October 2022**

Weapon Used	# of Incidents	Average # of		
		Fatalities	Injuries	Total
Assault Weapon	36	12	24	36
<i>Assault Rifle</i>	32	12	26	38
No Assault Weapon	117	6	4	10
Unknown	26	5	3	9
Large-Cap. Mag.	73	10	16	25
No Large-Cap. Mag.	42	6	3	9
Unknown	64	5	3	7
Assault Weapon & Large-Cap. Mag.	31	13	27	40
<i>Assault Rifle & Large-Cap. Mag.</i>	27	13	30	43
Large-Cap. Mag. Only ¹	36	8	7	15
No Assault Weapon or Large-Cap. Mag. ²	41	6	3	8
Unknown ³	71	5	3	8

Notes and Sources:

Casualty figures exclude the shooter. Assault Weapon, Assault Rifle and large-capacity magazine classification and casualties updated based on review of stories from Factiva/Google searches.

¹ Shootings involving large-capacity magazine and no Assault Weapon.

² Shootings involving neither a large-capacity magazine nor Assault Weapon.

³ Shootings where it is either unknown whether a large-capacity magazine was involved or unknown whether an Assault Weapon was involved.

42. Our results are consistent with those of other studies that have analyzed mass shootings. Note that although the other studies are based on alternate sets of mass shootings, including covering different years and defining mass shootings somewhat differently, the results are similar in finding that fatalities and injuries are larger in mass shootings in which large capacity magazines and assault we are involved. A 2019 academic article published in the *American Journal of Public Health* by Klarevas et al. found that “[a]ttacks involving LCMs resulted in a

1 62% higher mean average death toll.”⁵⁴ This study found an average number of
2 fatalities of 11.8 per mass shooting with a large-capacity magazine versus 7.3 for
3 those without. The results in this study were based on 69 mass shootings between
4 1990 and 2017.⁵⁵ An analysis of the mass shootings detailed in a 2016 article by
5 Gary Kleck yielded similar results (21 average fatalities or injuries in mass
6 shootings involving large-capacity magazines versus 8 for those without).⁵⁶ The
7 Kleck study covered 88 mass shooting incidents between 1994 and 2013.⁵⁷ In a
8 2018 study, Koper et al. found that mass shootings involving assault weapons and
9 large-capacity magazines resulted in an average of 13.7 victims versus 5.2 for other
10 cases.⁵⁸ The Koper et al. study covered 145 mass shootings between 2009 and
11 2015.⁵⁹ The table below summarizes their results.

12
13
14 ⁵⁴ Louis Klarevas, Andrew Conner, and David Hemenway, “The Effect of
15 Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990–2017,”
American Journal of Public Health (2019).

16 ⁵⁵ The Klarevas et al. study defines mass shootings as “intentional crimes of
17 gun violence with 6 or more victims shot to death, not including the perpetrators”
18 and, unlike my analysis, does not exclude incidents in private places or incidents
involving other criminal activity such as robbery.

19 ⁵⁶ Kleck, Gary, “Large-Capacity Magazines and the Casualty Counts in Mass
20 Shootings: The Plausibility of Linkages,” 17 *Justice Research and Policy* 28
(2016).

21 ⁵⁷ The Kleck study defines a mass shooting as “one in which more than six
22 people were shot, either fatally or nonfatally, in a single incident.” See, Kleck,
23 Gary, “Large-Capacity Magazines and the Casualty Counts in Mass Shootings: The
Plausibility of Linkages,” 17 *Justice Research and Policy* 28 (2016).

24 ⁵⁸ Koper et al., “Criminal Use of Assault Weapons and High-Capacity
25 Semiautomatic Firearms: an Updated Examination of Local and National Sources,”
Journal of Urban Health (2018).

26 ⁵⁹ The Koper et al. study defined mass shooting as “incidents in which four or
27 more people were murdered with a firearm, not including the death of the shooter if
28 applicable and irrespective of the number of additional victims shot but not killed.”

Comparison of Studies on the Use of Large-Capacity Magazines in Mass Shootings						
Source	# Victims	Criteria Other Criteria	Time Period	# of Incidents	Avg. # of Fatalities + Injuries / Fatalities	
(1)	(2)	(3)	(4)	(5)	With LCM	Without LCM
Allen (2020) ¹	at least 4 <u>killed</u> ²	Includes shootings "in a public place in one incident, and exclude[s] incidents involving other criminal activity such as a robbery"	1982-2019	161	27 / 10	9 / 6
Kleck et al. (2016) ³	at least 6 <u>shot</u>	Excludes "spree shootings" and includes shootings in both "public" and "private" places	1994-2013	88	21 / n/a	8 / n/a
Klarevas et al. (2019) ⁴	at least 6 <u>killed</u> ²	Includes "intentional crimes of gun violence"	1990-2017	69	n/a / 12	n/a / 7
Koper et al. (2018) ⁵	at least 4 <u>killed</u> ²	Includes shootings in both public and private places	2009-2015	145	14 / n/a	5 / n/a
Notes and Sources: ¹ Declaration of Lucy P. Allen in Support of Defendants' Opposition to Motion for Preliminary Injunction in <i>James Miller et al. v. Xavier Becerra et al.</i> , dated January 23, 2020. ² Excluding shooter. ³ Kleck, Gary, "Large-Capacity Magazines and the Casualty Counts in Mass Shootings: The Plausibility of Linkages," 17 Justice Research and Policy 28 (2016). ⁴ Klarevas et al., "The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings 1990-2017," American Journal of Public Health (2019). ⁵ Koper et al., "Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: an Updated Examination of Local and National Sources," Journal of Urban Health (2018). Note that the Koper et al study includes shootings involving both LCM and assault weapons.						

3. Number of rounds fired in public mass shootings with Assault Weapons or large-capacity magazines

43. The data on public mass shootings indicates that it is common for offenders to fire more than ten rounds when using an Assault Weapon. Of the 36 mass shootings we analyzed through October 2022 that are known to have involved an Assault Weapon, there are 24 in which the number of shots fired is known. Shooters fired more than ten rounds in *all* 24 incidents, and the average number of shots fired was 149.

44. In addition, the data indicates that it is common for offenders to fire more than ten rounds when using a gun with a large-capacity magazine in mass shootings. Of the 73 mass shootings that are known to have involved a large-capacity magazine, there are 49 in which the number of shots fired is known.

1 Shooters fired more than ten rounds in 46 of the 49 incidents, and the average
2 number of shots fired was 99.

3 **4. Percent of mass shooters' guns legally obtained**

4 45. The data on public mass shootings indicates that the majority of guns
5 used in these mass shootings were obtained legally.⁶⁰ Of the 179 mass shootings
6 analyzed through October 2022, there are 112 where it can be determined whether
7 the gun was obtained legally. According to the data, shooters in 79% of mass
8 shootings obtained their guns legally (89 of the 112 mass shootings) and 80% of the
9 guns used in these 112 mass shootings were obtained legally (202 of the 252 guns).
10 (Note that even if one assumes that *all* of the mass shootings where it is not known
11 were assumed to be illegally obtained, then one would find 50% of the mass
12 shootings and 62% of the guns were obtained legally.)

13
14 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the
15 laws of the United States of America that the foregoing is true and correct.

16 Executed on January 6, 2023, at New York, New York.

17
18 
19 _____
20 Lucy P. Allen
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27 ⁶⁰ The determination of whether guns were obtained legally is based on
28 Mother Jones and Washington Post reporting.



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Exhibit A

LUCY P. ALLEN MANAGING DIRECTOR

Education

YALE UNIVERSITY

M.Phil., Economics, 1990

M.A., Economics, 1989

M.B.A., 1986

STANFORD UNIVERSITY

A.B., Human Biology, 1981

Professional Experience

1994-Present

National Economic Research Associates, Inc.

Managing Director. Responsible for economic analysis in the areas of securities, finance and environmental and tort economics.

Senior Vice President (2003-2016).

Vice President (1999-2003).

Senior Consultant (1994-1999).

1992-1993

Council of Economic Advisers, Executive Office of the President

Staff Economist. Provided economic analysis on regulatory and health care issues to Council Members and interagency groups. Shared responsibility for regulation and health care chapters of the *Economic Report of the President, 1993*. Working Group member of the President's National Health Care Reform Task Force.

1986-1988

1983-1984

Ayers, Whitmore & Company (General Management Consultants)

Senior Associate. Formulated marketing, organization, and overall business strategies including:

Plan to improve profitability of chemical process equipment manufacturer.

Merger analysis and integration plan of two equipment manufacturers.

Evaluation of Korean competition to a U.S. manufacturer.

Diagnostic survey for auto parts manufacturer on growth obstacles.

Lucy P. Allen

Marketing plan to increase international market share for major accounting firm.

Summer 1985 **WNET/Channel Thirteen, Strategic Planning Department**
Associate. Assisted in development of company's first long-term strategic plan. Analyzed relationship between programming and viewer support.

1981-1983 **Arthur Andersen & Company**
Consultant. Designed, programmed and installed management information systems. Participated in redesign/conversion of New York State's accounting system. Developed municipal bond fund management system, successfully marketed to brokers. Participated in President's Private Sector Survey on Cost Control (Grace Commission). Designed customized tracking and accounting system for shipping company.

Teaching

1989- 1992 **Teaching Fellow, Yale University**
Honors Econometrics
Intermediate Microeconomics
Competitive Strategies
Probability and Game Theory
Marketing Strategy
Economic Analysis

Publications

"Snapshot of Recent Trends in Asbestos Litigation: 2022 Update," (co-author), NERA Report, 2022.

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"The Short-Term Effect of Goodwill Impairment Announcements on Companies' Stock Prices" (co-author), *International Journal of Business, Accounting and Finance*, Volume 14, Number 2, Fall 2020.

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Lucy P. Allen

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“China Product Recalls: What’s at Stake and What’s Next,” (co-author), NERA Working Paper, 2008.

“Forecasting Product Liability by Understanding the Driving Forces,” (co-author), *The International Comparative Legal Guide to Product Liability*, 2006.

“Securities Litigation Reform: Problems and Progress,” *Viewpoint*, November 1999, Issue No. 2 (co-authored).

Lucy P. Allen

“Trends in Securities Litigation and the Impact of the PSLRA,” Class Actions & Derivative Suits, American Bar Association Litigation Section, Vol. 9, No. 3, Summer 1999 (co-authored).

“Random Taxes, Random Claims,” Regulation, Winter 1997, pp. 6-7 (co-authored).

Depositions & Testimony (4 years)

Deposition Testimony before the United States District Court for the District of Harris County, Texas in *Boxer Property Management Corp. et al. v. Illinois Union Ins. Co. et al.*, 2022.

Supplemental Declaration before the United States District Court, Southern District of California, in *Virginia Duncan, et al. v. Rob Bonta, et al.*, 2022.

Declaration before the United States District Court, Eastern District of Washington, in *Michael Scott Brumback, et al. v. Robert W. Ferguson, et al.*, 2022.

Trial Testimony before the Supreme Court of the State of New York, County of New York, in *MUFG Union Bank, N.A. (f/k/a Union Bank, N.A.) v. Axos Bank (f/k/a Bank of Internet USA), et al.*, 2022.

Supplemental Declaration before the United States District Court, Southern District of California, in *James Miller et al. v. California Attorney General et al.*, 2022.

Declaration before the United States District Court, Northern District of Texas, Dallas Division, in *Samir Ali Cherif Benouis v. Match Group, Inc., et al.*, 2022.

Deposition Testimony before the United States District Court for the Eastern District of Virginia, in *Plymouth County Retirement System, et al. v. Evolent Health, Inc., et al.*, 2022.

Deposition Testimony before the United States District Court for the Northern District of Georgia, in *Public Employees’ Retirement System of Mississippi v. Mohawk Industries, Inc., et al.*, 2022.

Deposition Testimony before the United States District Court for the Southern District of New York, in *SEC v. AT&T, Inc. et al.*, 2022.

Deposition Testimony before the Superior Court of New Jersey, Hudson County, in *Oklahoma Firefighters Pension and Retirement System vs. Newell Brands Inc., et al.*, 2022.

Deposition Testimony before the United States District Court for the District of Pennsylvania, in *Allegheny County Employees, et al. v. Energy Transfer LP., et al.*, 2022.

Lucy P. Allen

Deposition Testimony before the United States District Court, District of Tennessee, in *St. Clair County Employees' Retirement System v. Smith & Acadia Healthcare Company, Inc., et al.*, 2022.

Deposition Testimony before the United States District Court, District of Colorado, in *Cipriano Correa, et al. v. Liberty Oilfield Services Inc., et al.*, 2022.

Deposition Testimony before the Superior Court of New Jersey, Hudson County, in *Oklahoma Firefighters Pension and Retirement System vs. Newell Brands Inc., et al.*, 2021.

Deposition Testimony before the Superior Court of New Jersey, Middlesex County, in *Dana Transport, Inc. et al., vs. PNC Bank et al.*, 2021.

Deposition Testimony before the United States District Court, Western District of North Carolina, in *Cheyenne Jones and Sara J. Gast v. Coca-Cola Consolidated Inc., et al.*, 2021.

Testimony and Deposition Testimony before the Court of Chancery of the State of Delaware in *Bardy Diagnostics Inc. v. Hill-Rom, Inc. et al.*, 2021.

Deposition Testimony before the United States Bankruptcy Court, Southern District of Texas, Houston Division, in *Natixis Funding Corporation v. Genon Mid-Atlantic, LLC*, 2021.

Testimony and Deposition Testimony before the United States District Court, Southern District of California, in *James Miller et al. v. Xavier Becerra et al.*, 2021.

Deposition Testimony before the Court of Chancery of the State of Delaware in *Arkansas Teacher Retirement System v. Alon USA Energy, Inc., et al.*, 2021.

Deposition Testimony before the United States District Court, Western District of Oklahoma, in *Kathleen J. Myers v. Administrative Committee, Seventy Seven Energy, Inc. Retirement & Savings Plan, et al.*, 2020.

Deposition Testimony before the United States District Court, Middle District of Tennessee, in *Nikki Bollinger Grae v. Corrections Corporation of America, et al.*, 2020.

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Declaration before the United States District Court for the Northern District of Georgia, in *Sunil Amin et al. v. Mercedes-Benz USA, LLC and Daimler AG*, 2020.

Deposition Testimony before the United States District Court, Western District of Washington at Seattle, in *In re Zillow Group, Inc. Securities Litigation*, 2020.

Lucy P. Allen

Declaration before the United States District Court for the Southern District of California in *James Miller et al. v. Xavier Becerra et al.*, 2020.

Deposition Testimony before the United States District Court, Middle District of Tennessee, in *Zwick Partners LP and Aparna Rao v. Quorum Health Corporation*, 2019.

Testimony and Declaration before the United States District Court, Southern District of Iowa, in *Mahaska Bottling Company, Inc., et al. v. PepsiCo, Inc. and Bottling Group, LLC*, 2019.

Declaration before the United States District Court Western District of Oklahoma in *In re: Samsung Top-Load Washing Machine Marketing, Sales Practices and Products Liability Litigation*, 2019.

Testimony before the United States District Court, Southern District of New York, in *Chicago Bridge & Iron Company N.V. Securities Litigation*, 2019.

Deposition Testimony before the United States District Court, Middle District of Florida, in *Jacob J. Beckel v. Fagron Holdings USA, LLC et al.*, 2019.

Exhibit
Public Mass Shootings Data
October

Case	Location	Date	Source	Large Capacity Mag. ^a	Assault Weapon ^b	Assault Rifle ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally ^e	Offender(s) Number of Guns
()	()	()	()	()	()	()	()	()	()	()	()	()
1. Raleigh spree shooting	Heddingham, NC	10/13/22	MJ	-	-	No	5	2	7	-	-	2
2. Highland Park July 4 parade shooting	Highland Park, IL	7/4/22	MJ	Yes	-	-	7	48	55	83 ^{ba}	Yes	1
3. Tulsa medical center shooting	Tulsa, OK	6/1/22	MJ	-	-	-	4	9 ^{bb}	13 ^{bb}	37 ^{bc}	Yes	2
4. Robb Elementary School massacre	Uvalde, T	5/24/22	MJ	Yes	Yes	Yes	21	17	38	164 ^{bd}	Yes	1 ^{be}
5. Buffalo supermarket massacre	Buffalo, NY	5/14/22	MJ/VP	Yes	Yes	Yes	10	3	13	60 ^{bf}	Yes	1
6. Sacramento County church shooting	Sacramento, CA	2/28/22	MJ	Yes	-	-	4	0	4	-	Yes ^{bg}	1
7. Oxford High School shooting	Oxford, MI	11/30/21	MJ/VP	Yes	No	No	4	7	11	30 ^{bh}	Yes ^{bi}	1
8. San Jose VTA shooting	San Jose, CA	5/26/21	MJ/VP	Yes	No	No	9	0	9	39 ^{bj}	Yes ^{bk}	3
9. Canterbury Mobile Home Park shooting	Colorado Springs, CO	5/9/21	WaPo	Yes	-	No	6	0	6	17 ^{bl}	-	1
10. FedEx warehouse shooting	Indianapolis, IN	4/15/21	MJ/VP/WaPo	Yes	Yes	Yes	8	7	15	-	Yes	2 ^{bm}
11. Orange office complex shooting	Orange, CA	3/31/21	MJ/VP/WaPo	-	-	No	4	1	5	-	-	1
12. Essex Royal Farms shooting	Baltimore County, MD	3/28/21	WaPo	-	-	-	4	1	5	-	Yes ^{bn}	1
13. King Soopers supermarket shooting	Boulder, CO	3/22/21	MJ/VP/WaPo	Yes	Yes	No	10	0	10	-	Yes	2
14. Atlanta massage parlor shootings	Atlanta, GA	3/16/21	MJ/VP/WaPo	Yes	-	No	8	1	9	-	Yes ^{bo}	1
15. Hyde Park shooting	Chicago, IL	1/9/21	WaPo	-	-	No	5	2	7	-	-	1
16. Englewood block party shooting	Chicago, IL	7/4/20	WaPo	-	-	-	4	4	8	-	-	-
17. Springfield convenience store shooting	Springfield, MO	3/15/20	MJ/VP/WaPo	-	-	-	4	2	6	-	Yes ^{bp}	2
18. Molson Coors shooting	Milwaukee, WI	2/26/20	MJ/VP/WaPo	-	-	No	5	0	5	12 ^{bq}	-	2 ^{br}
19. Jersey City Kosher Supermarket	Jersey City, NJ	12/10/19	MJ/VP/WaPo	-	No	No	4	3	7	-	Yes	5
20. Football-watching party	Fresno, CA	11/17/19	WaPo	-	No	No	4	6	10	-	-	2
21. Halloween Party	Orinda, CA	11/1/19	WaPo	-	-	-	5	0	5	-	-	1
22. Tequila KC bar	Kansas City, KS	10/6/19	WaPo	-	No	No	4	5	9	-	No	2
23. Midland-Odessa Highways	Odessa, T	8/31/19	MJ/VP/WaPo	-	Yes	Yes	7	25	32	-	No	1
24. Dayton	Dayton, OH	8/4/19	MJ/VP/WaPo	Yes	Yes	No	9	27	36	41 ^f	Yes	1/2
25. El Paso Walmart	El Paso, T	8/3/19	MJ/VP/WaPo	Yes	Yes	Yes	22	26	48	-	Yes	1
26. Casa Grande Senior Mobile Estates	Santa Maria, CA	6/19/19	WaPo	-	-	-	4	0	4	-	-	1
27. Virginia Beach Municipal Center	Virginia Beach, VA	5/31/19	MJ/VP/WaPo	Yes	No	No	12	4	16	-	Yes	2
28. Henry Pratt Co.	Aurora, IL	2/15/19	MJ/VP/WaPo	-	No	No	5	6	11	-	No	1
29. SunTrust Bank	Sebring, FL	1/23/19	MJ/VP/WaPo	-	No	No	5	0	5	-	Yes	1
30. Borderline Bar & Grill	Thousand Oaks, CA	11/7/18	MJ/VP/WaPo	Yes	No	No	12	1	13	50 ^g	Yes	1
31. Tree of Life Synagogue	Pittsburgh, PA	10/27/18	MJ/VP/WaPo	-	Yes	Yes	11	6	17	-	Yes	4
32. T&T Trucking	Bakersfield, CA	9/12/18	MJ/VP/WaPo	No	No	No	5	0	5	-	-	1
33. Capital Gazette	Annapolis, MD	6/28/18	MJ/VP/WaPo	-	No	No	5	2	7	-	Yes	1

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Exhibit
Public Mass Shootings Data
October

Case	Location	Date	Source	Large Capacity Mag. ^a	Assault Weapon ^b	Assault Rifle ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Owned Legally ^e	Offender(s) Number of Guns
()	()	()	()	()	()	()	()	()	()	()	()	()
34. Santa Fe High School	Santa Fe, T	5/18/18	MJ/VP/WaPo	No	No	No	10	13	23	-	-	2
35. Waffle House	Nashville, TN	4/22/18	MJ/VP/WaPo	-	Yes	Yes	4	4	8	-	Yes	1
36. Detroit	Detroit, MI	2/26/18	VP	-	No	No	4	0	4	-	-	-
37. Stoneman Douglas HS	Parkland, FL	2/14/18	CC/MJ/VP/WaPo	Yes	No	No	17	17	34	-	Yes	1
38. Pennsylvania Carwash	Melcroft, PA	1/28/18	MJ/VP/WaPo	-	-	-	4	1	5	-	-	3 h
39. Rancho Tehama	Rancho Tehama, CA	11/14/17	MJ/VP/WaPo	Yes	Yes	Yes	4	10	14	30 ⁱ	No	2
40. Texas First Baptist Church	Sutherland Springs, T	11/5/17	CC/MJ/VP/WaPo	Yes	Yes	Yes	26	20	46	450 ^j	Yes	1
41. Las Vegas Strip	Las Vegas, NV	10/1/17	CC/MJ/VP/WaPo	Yes	Yes	Yes	58	422	480	1100 ^k	Yes	23
42. Taos and Rio Arriba counties	Abiquiu, NM	6/15/17	WaPo	No	No	No	5	0	5	-	-	1
43. Fiamma Workplace	Orlando, FL	6/5/17	CC/MJ/VP/WaPo	No	No	No	5	0	5	-	-	1
44. Marathon Savings Bank	Rothschild, WI	3/22/17	VP/WaPo	-	No	No	4	0	4	-	-	2
45. Club 66	Yazoo City, MS	2/6/17	VP/WaPo	-	-	-	4	0	4	-	-	1
46. Fort Lauderdale Airport	Fort Lauderdale, FL	1/6/17	CC/MJ/VP/WaPo	No	No	No	5	6	11	15 ^l	Yes	1
47. Cascade Mall	Burlington, WA	9/23/16	CC/MJ/VP/WaPo	Yes	No	No	5	0	5	-	-	1
48. Dallas Police	Dallas, T	7/7/16	CC/MJ/VP/WaPo	Yes	Yes	Yes	5	11	16	-	Yes	3
49. Walgreens Parking Lot	Las Vegas, NV	6/29/16	WaPo	-	-	-	4	0	4	-	-	1
50. Orlando Nightclub	Orlando, FL	6/12/16	CC/MJ/VP/WaPo	Yes	Yes	Yes	49	53	102	110 ^m	Yes	2
51. Franklin Avenue Cookout	Wilkesburg, PA	3/9/16	VP/WaPo	Yes	Yes	Yes	6	3	9	48 ⁿ	No	2
52. Kalamazoo	Kalamazoo County, MI	2/20/16	MJ/VP/WaPo	Yes	No	No	6	2	8	-	Yes	1
53. San Bernardino	San Bernardino, CA	12/2/15	CC/MJ/VP/WaPo	Yes	Yes	Yes	14	22	36	150 ^o	Yes	4
54. Tennessee Colony campsite	Anderson County, T	11/15/15	VP/WaPo	-	-	-	6	0	6	-	-	1
55. Umpqua Community College	Roseburg, OR	10/1/15	CC/MJ/VP/WaPo	-	No	No	9	9	18	-	Yes	6
56. Chattanooga Military Center	Chattanooga, TN	7/16/15	CC/MJ/VP/WaPo	Yes	Yes	Yes	5	2	7	-	Yes	3
57. Charleston Church	Charleston, SC	6/17/15	CC/MJ/VP/WaPo	Yes	No	No	9	3	12	-	Yes	1
58. Marysville High School	Marysville, WA	10/24/14	CC/MJ/VP/WaPo	Yes	No	No	4	1	5	-	No	1
59. Isla Vista	Santa Barbara, CA	5/23/14	MJ/VP/WaPo	No	No	No	6	13	19	50 ^p	Yes	3
60. Alturas Tribal	Alturas, CA	2/20/14	MJ/VP/WaPo	-	No	No	4	2	6	-	-	2
61. Washington Navy Yard	Washington, D.C.	9/16/13	CC/MJ/VP/WaPo	No	No	No	12	8	20	-	Yes	2
62. Hialeah	Hialeah, FL	7/26/13	CC/MJ/VP/WaPo	Yes	No	No	6	0	6	10 ^q	Yes	1
63. Santa Monica	Santa Monica, CA	6/7/13	CC/MJ/VP/WaPo	Yes	Yes	Yes	5	3	8	70 ^r	Yes	2
64. Federal Way	Federal Way, WA	4/21/13	MJ/VP/WaPo	-	No	No	4	0	4	-	Yes	2
65. Upstate New York	Herkimer County, NY	3/13/13	MJ/VP/WaPo	-	No	No	4	2	6	-	Yes	1
66. Newtown School	Newtown, CT	12/14/12	CC/MJ/VP/WaPo	Yes	Yes	Yes	27	2	29	154	No	4/3

**Exhibit
Public Mass Shootings Data
October**

Case	Location	Date	Source	Large Capacity Mag. ^a	Assault Weapon ^b	Assault Rifle ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Owned Legally ^e	Offender(s) Number of Guns
()	()	()	()	()	()	()	()	()	()	()	()	()
67. Accent Signage Systems	Minneapolis, MN	9/27/12	CC/MJ/VP/WaPo	Yes	No	No	6	2	8	46	Yes	1
68. Sikh Temple	Oak Creek, WI	8/5/12	CC/MJ/VP/WaPo	Yes	No	No	6	4	10	-	Yes	1
69. Aurora Movie Theater	Aurora, CO	7/20/12	CC/MJ/VP/WaPo	Yes	Yes	Yes	12	70	82	80	Yes	4
70. Seattle Caf	Seattle, WA	5/30/12	CC/MJ/VP/WaPo	No	No	No	5	1	6	-	Yes	2
71. Oikos University	Oakland, CA	4/2/12	CC/MJ/VP/WaPo	No	No	No	7	3	10	-	Yes	1
72. Su Jung Health Sauna	Norcross, GA	2/22/12	MJ/WaPo	-	No	No	4	0	4	-	Yes	1
73. Seal Beach	Seal Beach, CA	10/14/11	CC/MJ/VP/WaPo	No	No	No	8	1	9	-	Yes	3
74. IHOP	Carson City, NV	9/6/11	CC/MJ/VP/WaPo	Yes	Yes	Yes	4	7	11	-	Yes	3
75. Akron	Akron, OH	8/7/11	VP	No	No	No	7	2	9	21 ^s	-	-
76. Forum Roller World	Grand Prairie, T	7/23/11	WaPo	-	No	No	5	4	9	-	-	1
77. Grand Rapids	Grand Rapids, MI	7/7/11	CC	Yes	No	No	7	2	9	10	-	1
78. Family law practice	Yuma, A	6/2/11	WaPo	-	-	-	5	1	6	-	-	1
79. Tucson	Tucson, A	1/8/11	CC/MJ/VP/WaPo	Yes	No	No	6	13	19	33	Yes	1
80. Jackson	Jackson, KY	9/11/10	VP	No	No	No	5	0	5	12 ^t	-	-
81. City Grill	Buffalo, NY	8/14/10	VP/WaPo	-	No	No	4	4	8	10 ^u	-	1
82. Hartford Beer Distributor	Manchester, CT	8/3/10	CC/MJ/VP/WaPo	Yes	No	No	8	2	10	11	Yes	2
83. Yoyito Caf	Hialeah, FL	6/6/10	CC/VP/WaPo	No	No	No	4	3	7	9 ^v	-	-
84. Hot Spot Caf	Los Angeles, CA	4/3/10	VP/WaPo	-	No	No	4	2	6	50 ^w	-	1
85. Coffee Shop Police	Parkland, WA	11/29/09	CC/MJ/VP/WaPo	No	No	No	4	0	4	-	No	2
86. Fort Hood	Fort Hood, T	11/5/09	CC/MJ/VP/WaPo	Yes	No	No	13	32	45	214	Yes	1
87. Worth Street	Mount Airy, NC	11/1/09	VP/WaPo	-	Yes	Yes	4	0	4	16 ^x	No	1
88. Binghamton	Binghamton, NY	4/3/09	CC/MJ/VP/WaPo	Yes	No	No	13	4	17	99	Yes	2
89. Carthage Nursing Home	Carthage, NC	3/29/09	CC/MJ/VP/WaPo	No	No	No	8	2	10	-	Yes	2
90. Skagit County	Alger, WA	9/2/08	VP/WaPo	-	No	No	6	4	10	-	No	2
91. Atlantis Plastics	Henderson, KY	6/25/08	CC/MJ/VP/WaPo	No	No	No	5	1	6	-	Yes	1
92. Black Road Auto	Santa Maria, CA	3/18/08	VP/WaPo	-	No	No	4	0	4	17 ^y	-	1
93. Northern Illinois University	DeKalb, IL	2/14/08	CC/MJ/VP/WaPo	Yes	No	No	5	21	26	54	Yes	4
94. Kirkwood City Council	Kirkwood, MO	2/7/08	CC/MJ/VP/WaPo	No	No	No	6	1	7	-	No	2
95. Youth With a Mission and New Life Church	Colorado Springs, CO	12/9/07	VP/WaPo	Yes	Yes	Yes	4	5	9	25 ^z	-	3
96. Westroads Mall	Omaha, NE	12/5/07	CC/MJ/VP/WaPo	Yes	Yes	Yes	8	5	13	14	No	1
97. Crandon	Crandon, WI	10/7/07	CC/MJ/WaPo	Yes	-	-	6	1	7	30 ^{aa}	Yes	1
98. Virginia Tech	Blacksburg, VA	4/16/07	CC/MJ/VP/WaPo	Yes	No	No	32	17	49	176	Yes	2
99. Trolley Square	Salt Lake City, UT	2/12/07	CC/MJ/VP/WaPo	No	No	No	5	4	9	-	No	2

#9989

Exhibit
Public Mass Shootings Data
October

Case	Location	Date	Source	Large Capacity Mag. ^a	Assault Weapon ^b	Assault Rifle ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally ^e	Offender(s) Number of Guns
()	()	()	()	()	()	()	()	()	()	()	()	()
100. Amish School	Lancaster County, PA	10/2/06	CC/MJ/VP/WaPo	No	No	No	5	5	10	-	Yes	3
101. The Ministry of Jesus Christ	Baton Rouge, LA	5/21/06	VP/WaPo	-	No	No	5	1	6	-	-	1
102. Capitol Hill	Seattle, WA	3/25/06	CC/MJ/VP/WaPo	Yes	Yes	Yes	6	2	8	-	Yes	4
103. Goleta Postal	Goleta, CA	1/30/06	CC/MJ/VP/WaPo	Yes	No	No	7	0	7	-	Yes	1
104. Sash Assembly of God	Sash, T	8/29/05	VP/WaPo	-	No	No	4	0	4	-	-	2
105. Red Lake	Red Lake, MN	3/21/05	CC/MJ/VP/WaPo	No	No	No	9	7	16	-	No	3
106. Living Church of God	Brookfield, WI	3/12/05	CC/MJ/VP/WaPo	Yes	No	No	7	4	11	-	Yes	1
107. Fulton County Courthouse	Atlanta, GA	3/11/05	VP/WaPo	-	No	No	4	0	4	-	No	1
108. Damageplan Show	Columbus, OH	12/8/04	CC/MJ/VP/WaPo	No	No	No	4	3	7	15 ^{ab}	Yes	1
109. Hunting Camp	Meteor, WI	11/21/04	CC/VP/WaPo	Yes	Yes	Yes	6	2	8	20	-	1
110. ConAgra Foods Plant	Kansas City, KS	7/3/04	VP/WaPo	-	No	No	6	1	7	10 ^{ac}	-	2
111. Stateline Tavern	Oldtown, ID	10/24/03	VP/WaPo	Yes	No	No	4	0	4	14 ^{ad}	-	1
112. Windy City Warehouse	Chicago, IL	8/27/03	CC/VP/WaPo	No	No	No	6	0	6	-	-	-
113. Lockheed Martin	Meridian, MS	7/8/03	CC/MJ/VP/WaPo	-	No	No	6	8	14	-	Yes	5
114. Labor Ready	Huntsville, AL	2/25/03	VP/WaPo	-	No	No	4	1	5	-	-	1
115. Bertrand Products	South Bend, IN	3/22/02	VP/WaPo	-	No	No	4	2	6	-	-	2
116. Burns International Security	Sacramento, CA	9/10/01	VP/WaPo	Yes	Yes	Yes	5	2	7	200 ^{ae}	-	2
117. Bookcliff RV Park	Rifle, CO	7/3/01	VP/WaPo	No	No	No	4	3	7	6 ^{af}	-	1
118. Navistar	Melrose Park, IL	2/5/01	CC/MJ/VP/WaPo	Yes	No	No	4	4	8	-	Yes	4
119. Houston	Houston, T	1/9/01	VP	-	No	No	4	0	4	-	-	-
120. Wakefield	Wakefield, MA	12/26/00	CC/MJ/VP/WaPo	Yes	-	-	7	0	7	37	Yes	3
121. Mount Lebanon	Pittsburgh, PA	4/28/00	VP/WaPo	No	No	No	5	1	6	-	Yes	1
122. Mi-T-Fine Car Wash	Irving, T	3/20/00	VP/WaPo	-	No	No	5	1	6	-	-	-
123. Hotel	Tampa, FL	12/30/99	CC/MJ/VP/WaPo	No	No	No	5	3	8	-	Yes	2
124. erox	Honolulu, HI	11/2/99	CC/MJ/VP/WaPo	Yes	No	No	7	0	7	28	Yes	1
125. Wedgwood Baptist Church	Fort Worth, T	9/15/99	CC/MJ/VP/WaPo	Yes	No	No	7	7	14	30	Yes	2
126. Atlanta Day Trading	Atlanta, GA	7/29/99	MJ/VP/WaPo	-	No	No	9	13	22	-	Yes	4
127. Albertson's Supermarket	Las Vegas, NV	6/3/99	VP/WaPo	-	No	No	4	1	5	-	-	1
128. Columbine High School	Littleton, CO	4/20/99	CC/MJ/VP/WaPo	Yes	Yes	Yes	13	23	36	188	No	4
129. New St. John Fellowship Baptist Church	Gonzalez, LA	3/10/99	VP/WaPo	-	No	No	4	4	8	-	-	1
130. Thurston High School	Springfield, OR	5/21/98	CC/MJ/VP/WaPo	Yes	No	No	4	25	29	50	No	3
131. Westside Middle School	Jonesboro, AR	3/24/98	CC/MJ/VP/WaPo	Yes	No	No	5	10	15	26	No	9/10
132. Connecticut Lottery	Newington, CT	3/6/98	CC/MJ/VP/WaPo	Yes	No	No	4	0	4	5	Yes	1

#9990

Exhibit
Public Mass Shootings Data
October

Case	Location	Date	Source	Large Capacity Mag. ^a	Assault Weapon ^b	Assault Rifle ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally ^e	Offender(s) Number of Guns
()	()	()	()	()	()	()	()	()	()	()	()	()
133. Caltrans Maintenance Yard	Orange, CA	12/18/97	CC/MJ/VP/WaPo	Yes	Yes	Yes	4	2	6	144	Yes	1
134. Erie Manufacturing	Bartow, FL	12/3/97	VP	-	No	No	4	0	4	12 ^{ag}	-	-
135. R.E. Phelon Company	Aiken, SC	9/15/97	CC/MJ/VP/WaPo	No	No	No	4	3	7	-	No	1
136. News and Sentinel	Colebrook, NH	8/20/97	VP/WaPo	-	Yes	Yes	4	4	8	-	-	2
137. Fire Station	Jackson, MS	4/25/96	VP/WaPo	-	No	No	5	3	8	-	-	3
138. Fort Lauderdale	Fort Lauderdale, FL	2/9/96	CC/MJ/VP/WaPo	No	No	No	5	1	6	14 ^{ah}	Yes	2
139. Little Chester Shoes	New York, NY	12/19/95	VP/WaPo	Yes	No	No	5	3	8	-	-	1
140. Piper Technical Center	Los Angeles, CA	7/19/95	CC/VP/WaPo	Yes	No	No	4	0	4	-	-	-
141. Walter Rossler Company	Corpus Christi, T	4/3/95	CC/MJ/VP/WaPo	No	No	No	5	0	5	-	Yes	2
142. Puppy creek	Hoke County, NC	12/31/94	VP	-	-	-	5	1	6	-	-	-
143. Air Force Base	Fairchild Base, WA	6/20/94	CC/MJ/VP/WaPo	Yes	Yes	Yes	4	23	27	50 ^{ai}	Yes	1
144. Chuck E. Cheese	Aurora, CO	12/14/93	CC/MJ/VP/WaPo	No	No	No	4	1	5	-	-	1
145. Long Island Railroad	Garden City, NY	12/7/93	CC/MJ/VP/WaPo	Yes	No	No	6	19	25	30	Yes	1
146. Unemployment Office	Oxnard, CA	12/2/93	VP/WaPo	-	-	-	4	4	8	-	-	-
147. Family Fitness Club	El Cajon, CA	10/14/93	VP/WaPo	-	No	No	4	0	4	-	Yes	1
148. Luigi's Restaurant	Fayetteville, NC	8/6/93	CC/MJ/VP/WaPo	No	No	No	4	8	12	-	Yes	3
149. Washington County Bar	Jackson, MS	7/8/93	WaPo	-	-	-	5	0	5	-	-	1
150. 101 California Street	San Francisco, CA	7/1/93	CC/MJ/VP/WaPo	Yes	Yes	No	8	6	14	75	No	3
151. Card club	Paso Robles, CA	11/8/92	VP/WaPo	-	No	No	6	1	7	-	-	1
152. Watkins Glen	Watkins Glen, NY	10/15/92	CC/MJ/VP/WaPo	No	No	No	4	0	4	-	Yes	1
153. Lindhurst High School	Olivehurst, CA	5/1/92	CC/MJ/VP/WaPo	No	No	No	4	10	14	-	Yes	2
154. Phoenix	Phoenix, A	3/15/92	VP	-	-	-	4	0	4	-	-	-
155. Royal Oak Postal	Royal Oak, MI	11/14/91	CC/MJ/VP/WaPo	Yes	No	No	4	4	8	-	Yes	1
156. Restaurant	Harrodsburg, KY	11/10/91	VP/WaPo	No	No	No	4	0	4	6 ^{aj}	No	1
157. University of Iowa	Iowa City, IA	11/1/91	CC/MJ/VP/WaPo	No	No	No	5	1	6	-	Yes	1
158. Luby's Cafeteria	Killeen, T	10/16/91	CC/MJ/VP/WaPo	Yes	No	No	23	20	43	100	Yes	2
159. Post office	Ridgewood, NJ	10/10/91	VP/WaPo	Yes	Yes	No	4	0	4	-	-	2
160. GMAC	Jacksonville, FL	6/18/90	CC/MJ/VP/WaPo	Yes	No	No	9	4	13	14	Yes	2
161. Standard Gravure Corporation	Louisville, KY	9/14/89	CC/MJ/VP/WaPo	Yes	Yes	Yes	8	12	20	21	Yes	5
162. Stockton Schoolyard	Stockton, CA	1/17/89	CC/MJ/VP/WaPo	Yes	Yes	Yes	5	29	34	106	Yes	2
163. Montefiore School	Chicago, IL	9/22/88	VP/WaPo	No	No	No	4	2	6	-	-	1
164. Old Salisbury Road	Winston-Salem, NC	7/17/88	VP/WaPo	-	No	No	4	5	9	-	-	1
165. ESL	Sunnyvale, CA	2/16/88	CC/MJ/VP/WaPo	No	No	No	7	4	11	-	Yes	7

#9991

Exhibit
Public Mass Shootings Data
October

Case	Location	Date	Source	Large Capacity Mag. ^a	Assault Weapon ^b	Assault Rifle ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally ^e	Offender(s) Number of Guns
()	()	()	()	()	()	()	()	()	()	()	()	()
166. Shopping Centers	Palm Bay, FL	4/23/87	CC/MJ/VP/WaPo	Yes	No	No	6	14	20	40 ^{ak}	Yes	3
167. United States Postal Service	Edmond, OK	8/20/86	CC/MJ/VP/WaPo	No	-	No	14	6	20	-	Yes	3
168. Anchor Glass Container Corporation	South Connellsville, PA	3/16/85	VP/WaPo	No	No	No	4	1	5	-	-	1
169. Other Place Lounge	Hot Springs, AR	7/24/84	VP/WaPo	No	No	No	4	1	5	-	-	1
170. San Ysidro McDonald's	San Ysidro, CA	7/18/84	CC/MJ/VP/WaPo	Yes	Yes	Yes	21	19	40	257	Yes	3
171. Dallas Nightclub	Dallas, TX	6/29/84	CC/MJ/VP/WaPo	Yes	No	No	6	1	7	-	No	1
172. Alaska Mining Town	Manley Hot Springs, AK	5/17/84	VP/WaPo	No	No	No	7	0	7	-	-	1
173. College Station	College Station, TX	10/11/83	VP	-	No	No	6	0	6	-	-	-
174. Alaska Back-County	McCarthy, AK	3/1/83	VP/WaPo	-	No	No	6	2	8	-	-	2
175. Upper West Side Hotel	New York, NY	2/3/83	VP	No	No	No	4	1	5	-	-	1
176. The Investor	Noyes Island, AK	9/6/82	WaPo	-	No	No	8	0	8	-	-	1
177. Welding Shop	Miami, FL	8/20/82	MJ/VP/WaPo	No	No	No	8	3	11	-	Yes	1
178. Western Transfer Co.	Grand Prairie, TX	8/9/82	VP/WaPo	-	No	No	6	4	10	-	-	3
179. Russian Jack Springs Park	Anchorage, AK	5/3/82	VP/WaPo	-	No	No	4	0	4	-	No	1

Large Capacity Magazine Average
Non Large Capacity Magazine Average

Assault Weapon Average
Non Assault Weapon Average

Notes and Sources

Public Mass Shootings from Mother Jones ("US Mass Shootings, 1982-2022: Data from Mother Jones Investigation," updated November 23, 2022). MJ indicates a mass shooting identified by Mother Jones.

The Citizens Crime Commission of New York City ("Mayhem Multiplied: Mass Shooters and Assault Weapons," February 2018 update, and "Citizens Crime Commission of New York City, Mass Shooting Incidents in America (1984-2012)," accessed June 1, 2017). CC indicates a mass shooting identified by Citizens Crime Commission of New York City data.

The Washington Post ("The Terrible Numbers That Grow With Each Mass Shooting," updated May 12, 2021). WaPo indicates a mass shooting identified by The Washington Post.

The Violence Project ("Mass Shooter Database," updated May 14, 2022). VP indicates a mass shooting identified by the Violence Project.

^a Large capacity magazines are those with a capacity to hold more than 10 rounds of ammunition. Stories from Factiva and Google searches reviewed to determine whether an LCM was involved.

^b See Exhibit C for details.

^c Offender(s) are not included in counts of fatalities and injuries. Stories from Factiva and Google searches reviewed to determine number of fatalities and injuries.

^d Except where noted, all data on shots fired obtained from CC.

^e The determination of whether guns were obtained legally is based on Mother Jones and Washington Post reporting.

^{ba} "This is the norm in our country: Highland Park Mayor speaks to Senate committee about gun violence," *CBS Chicago*, July 20, 2022.

#9992

Exhibit
Public Mass Shootings Data
October

Case	Location	Date	Source	Large Capacity Mag. ^a	Assault Weapon ^b	Assault Rifle ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally ^e	Offender(s) Number of Guns
()	()	()	()	()	()	()	()	()	()	()	()	()

^{bb} MJ reported "fewer than 10" injuries for this incident.

^{bc} "Update: Man among those killed held door to allow others to escape, Tulsa police chief says," *TulsaWorld*, June 2, 2022.

^{bd} "The gunman in Uvalde carried more ammunition into Robb Elementary School than a U.S. soldier carries into combat," CBS News, May 27, 2022. Note the number of shots fired has been updated since Allen 2022 in Duncan v. Rob Bonta which listed 315 shots fired based on the number of rounds found at the school.

^{be} "Uvalde gunman legally bought AR rifles days before shooting, law enforcement says," *The Texas Tribune*, May 25, 2022.

^{bf} "Buffalo shooting suspect says his motive was to prevent eliminating the white race," *NPR*, June 16, 2022.

^{bfg} "Sacramento Church Mass Shooting Follows Disturbing Trend of Domestic Violence, Mass Shooting Connection Rise of Ghost Guns," *Everytown*, March 7, 2022.

^{bh} "Oxford High School shooter fired 30 rounds, had 18 more when arrested, sheriff says," *Fox2Detroit*, December 1, 2021.

^{bi} "Father of suspected Oxford High School shooter bought gun 4 days before shooting," *Fox 2 Detroit*, December 1, 2021.

^{bj} "VTA shooter fired 39 rounds during attack carried 32 high-capacity magazines," *KTVU Fox 2*, May 27, 2021.

^{bk} "Sam Cassidy legally owned guns used in San Jose VTA shooting: Sheriff," *Kron4*, May 28, 2021.

^{bl} "Colorado Springs shooter who killed 6 at party had "displayed power and control issues," police say," *The Denver Post*, May 11, 2021.

^{bm} "Indianapolis FedEx Shooter Who Killed 4 Sikhs Was Not Racially Motivated, Police Say," *NPR*, July 28, 2021.

^{bn} "Police Investigate Three Separate Fatal Shooting Incidents In Baltimore County," *Baltimore County Government Website*, March 29, 2021.

^{bo} "Atlanta Shooting Suspect Bought Gun on Day of Rampage," *Courthouse News*, March 26, 2021.

^{bp} "Search warrant reveals new information in Springfield Kum & Go shooting," *Springfield News-Leader*, April 8, 2020.

^{bq} "There was no warning this was going to happen, Miller shooting witnesses told investigators," *WISN 12 News*, November 24, 2020.

^{br} "Milwaukee Miller brewery shooting: Six Molson Coors workers, including shooter, dead in rampage," *Milwaukee Journal Sentinel*, February 26, 2020.

^f "The Dayton gunman killed 9 people by firing 41 shots in 30 seconds. A high-capacity rifle helped enable that speed," *CNN*, August 5, 2019.

^g "Authorities Describe Confusion And Chaos At Borderline Bar Shooting In California," *NPR*, November 28, 2018.

^h "Suspect in quadruple killing at car wash dies," *CNN*, January 30, 2018.

ⁱ "California gunman fired 30 rounds at elementary school, left when he couldn't get inside," *ABC News*, November 15, 2017.

^j "Be quiet It's him Survivors say shooter walked pew by pew looking for people to shoot," *CNN*, November 9, 2017.

^k "Sheriff Says More than 1,100 Rounds Fired in Las Vegas," *Las Vegas Review Journal*, November 22, 2017

^l "Fort Lauderdale Shooting Suspect Appears in Court, Ordered Held Without Bond," *Washington Post*, January 9, 2017.

#9993

Exhibit
Public Mass Shootings Data
October

Case	Location	Date	Source	Large Capacity Mag. ^a	Assault Weapon ^b	Assault Rifle ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally ^e	Offender(s) Number of Guns
()	()	()	()	()	()	()	()	()	()	()	()	()

^m "We Thought It Was Part of the Music : How the Pulse Nightclub Massacre Unfolded in Orlando," *The Telegraph*, June 13, 2016.

ⁿ "Two men charged with homicide in connection with Wilkinsburg backyard ambush," *Pittsburgh's Action News*, June 24, 2016.

^o "San Bernardino Suspects Left Trail of Clues, but No Clear Motive," *New York Times*, December 3, 2015.

^p "Sheriff: Elliot Rodger Fired 50-plus Times in Isle Vista Rampage," *Los Angeles Times*, June 4, 2014.

^q "Shooter Set 10,000 on Fire in Hialeah Shooting Rampage," *NBC News*, July 28, 2013.

^r "Police Call Santa Monica Gunman Ready for Battle," *New York Times*, June 8, 2013.

^s "Questions linger in slayings investigation continues in rampage as community searches for answers on why gunman shot eight people," *The Beacon Journal*, August 14, 2011.

^t "Kentucky Tragedy: Man Kills Wife, Five Others, in Rampage Over Cold Eggs, Say Cops," *CBS News*, September 13, 2010.

^u "Ex-gang member guilty of shooting 5 in deadly 17-second rampage," *NBC*, April 1, 2011.

^v "Hialeah Gunman's Rage Over Estranged Wife Leaved 5 Dead," *Sun-Sentinel*, June 7, 2010.

^w "Man convicted of killing 4 at Los Angeles restaurant," *Associated Press*, March 15, 2016.

^x "4 Victims In Mount Airy Shooting Related, Police Say," *WXII 12 News*, November 2, 2009.

^y "Arrested suspect might have warned of Santa Maria shooting," *Associated Press*, March 20, 2008.

^z "Profile: New information released on Matthew Murray, gunman in church-related shootings in Colorado Larry Bourbonnais, wounded in one of the shootings, discusses his experience," *NBC News*, December 11, 2007.

^{aa} "Small Town Grieves for 6, and the Killer," *Los Angeles Times*, October 9, 2007.

^{ab} "National Briefing Midwest: Ohio: Shooter At Club May Have Reloaded," *New York Times*, January 15, 2005.

^{ac} "Sixth person dies of injuries from shooting at Kansas meatpacking plant," *Associated Press*, July 3, 2004.

^{ad} "Four Killed In Oldtown Shooting," *The Miner*, October 30, 2003.

^{ae} "Sacramento shooter unscathed before killing self, autopsy shows," *Associated Press*, September 14, 2001.

^{af} "Gunman kills 3, wounds 4 in Rifle rampage mental patient is arrested," *The Denver Post*, April 2, 2015.

^{ag} "Unfinished business," *Dateline NBC*, December 21, 2006.

^{ah} "5 Beach Workers in Florida are Slain by Ex-Colleague," *New York Times*, February 10, 1996.

^{ai} "Man Bent On Revenge Kills 4, Hurts 23 -- Psychiatrist Is First Slain In Rampage At Fairchild Air Force Base," *The Seattle Times*, June 21, 1994.

^{aj} "Man Killed Estranged Wife, Three Others as They Drove to Dinner," *Associated Press*, November 11, 1991.

^{ak} "6 Dead in Florida Sniper Siege Police Seize Suspect in Massacre," *Chicago Tribune*, April 25, 1987.

#9994

Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault	Assault
			Citi ens Crime Commission ^a	Mother Jones ^b	Washington Post ^c	Weapon ^d	Rifle ^d
()	()	()	()	()	()	()	()
1. Raleigh spree shooting	Heddingham, NC	10/13/22		shotgun, semiautomatic handgun		-	No
2. Highland Park July 4 parade shooting	Highland Park, IL	7/4/22		AR-15 style rifle, possibly modified for rapid fire		-	-
3. Tulsa medical center shooting	Tulsa, OK	6/1/22		AR-15 style rifle		-	-
4. Robb Elementary School massacre	Uvalde, T	5/24/22		semiautomatic rifles		Yes ^{ca}	Yes ^{ca}
5. Buffalo supermarket massacre	Buffalo, NY	5/14/22		ushmaster M semiautomatic rifle		Yes	Yes
6. Sacramento County church shooting	Sacramento, CA	2/28/22		AR-15-style "ghost gun"		-	-
7. Oxford High School shooting	Oxford, MI	11/30/21		Sig Sauer 9mm pistol		No ^{cb}	No
8. San Jose VTA shooting	San Jose, CA	5/26/21		semiautomatic handguns		No ^{cc}	No
9. Canterbury Mobile Home Park shooting	Colorado Springs, CO	5/9/21			Smith & Wesson handgun	-	No
10. FedEx warehouse shooting	Indianapolis, IN	4/15/21		semiautomatic rifle	Ruger AR 556, M Defense M F Rifle	Yes ^{cd}	Yes ^{cd}
11. Orange office complex shooting	Orange, CA	3/31/21		semiautomatic handgun	Glock semiautomatic handgun	-	No
12. Essex Royal Farms shooting	Baltimore County, MD	3/28/21			-	-	-
13. King Soopers supermarket shooting	Boulder, CO	3/22/21		Ruger AR	Ruger AR pistol, 9mm pistol	Yes ^{ce}	No
14. Atlanta massage parlor shootings	Atlanta, GA	3/16/21		semiautomatic handgun	9mm handgun	-	No
15. Hyde Park shooting	Chicago, IL	1/9/21			.45-caliber pistol	-	No
16. Englewood block party shooting	Chicago, IL	7/4/20			-	-	-
17. Springfield convenience store shooting	Springfield, MO	3/15/20		SKS 7.62-caliber rifle Glock 9mm	Glock 9mm, SKS 7.62-caliber rifle	-	-
18. Molson Coors shooting	Milwaukee, WI	2/26/20		semiautomatic handgun	Handgun	-	No
19. Jersey City Kosher Supermarket	Jersey City, NJ	12/10/19		-	mossberg 12-gauge .22-caliber ruger Mark IV AR-15-style rifle Ruger 9mm semiautomatic pistol 9mm glock 17	No	No
20. Football-watching party	Fresno, CA	11/17/19		-	two semiautomatic handguns	No	No
21. Halloween Party	Orinda, CA	11/1/19		-	-	-	-
22. Tequila KC bar	Kansas City, KS	10/6/19		-	Handgun	No	No
23. Midland-Odessa Highways	Odessa, T	8/31/19		semiautomatic rifle	AR style rifle	Yes ^e	Yes
24. Dayton	Dayton, OH	8/4/19		AR style rifle, with a round capacity ammunition drum	23 caliber anderson AM-15 pistol modified to function like an AR rifle, shotgun	Yes ^{cf}	No
25. El Paso Walmart	El Paso, T	8/3/19		A style rifle, per authorities	7.62 caliber A style rifle	Yes	Yes
26. Casa Grande Senior Mobile Estates	Santa Maria, CA	6/19/19		-	-	-	-
27. Virginia Beach Municipal Center	Virginia Beach, VA	5/31/19		.45-caliber handguns noise suppressor (silencer) several high-capacity magazines	.45 caliber handgun with noise suppressor, .45 caliber handgun	No	No
28. Henry Pratt Co.	Aurora, IL	2/15/19		Smith & Wesson handgun, with a green sighting laser	.40-caliber Smith & Wesson semiautomatic handgun	No	No
29. SunTrust Bank	Sebring, FL	1/23/19		9 mm handgun	9mm semiautomatic handgun	No	No
30. Borderline Bar & Grill	Thousand Oaks, CA	11/7/18		Glock 21, 45 caliber high-capacity magazine	Glock 21 .45-caliber handgun	No	No
31. Tree of Life Synagogue	Pittsburgh, PA	10/27/18		AR Glock .357	Colt AR semiautomatic rifle three glock .357 pistols	Yes ^f	Yes

#9995

Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault	Assault
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c	Weapon ^d	Rifle ^d
()	()	()	()	()	()	()	()
32. T&T Trucking	Bakersfield, CA	9/12/18	-	-	.50-caliber Smith & Wesson 500	No ^g	No
33. Capital Gazette	Annapolis, MD	6/28/18	-	12-gauge pump-action shotgun	2 gauge shotgun	No	No
34. Santa Fe High School	Santa Fe, T	5/18/18	-	shotgun .38 revolver	.38 caliber revolver, shotgun	No	No
35. Waffle House	Nashville, TN	4/22/18	-	AR	AR style semiautomatic rifle	Yes ^h	Yes
36. Detroit	Detroit, MI	2/26/18	-	-	-	No	No
37. Stoneman Douglas HS	Parkland, FL	2/14/18	-	AR-15	.223 caliber smith & wesson M&P 15 semiautomatic ar 15 rifle	No ⁱ	No
38. Pennsylvania Carwash	Melcroft, PA	1/28/18	-	semiautomatic rifle and semiautomatic handgun	AR-15 .223-caliber semiautomatic rifle 9mm handgun	- ^j	-
39. Rancho Tehama	Rancho Tehama, CA	11/14/17	-	Two illegally modified rifles	two semiautomatic rifles two handguns	Yes ^k	Yes
40. Texas First Baptist Church	Sutherland Springs, T	11/5/17	-	Ruger AR Kelley also possessed semiautomatic handguns	9mm Glock pistol Ruger .22-caliber Ruger AR	Yes ^l	Yes
41. Las Vegas Strip	Las Vegas, NV	10/1/17	-	AR style and A style rifles and "a large cache of ammunition" four Daniel Defense DDM rifles, three FN s and other rifles made by Sig Sauer.	-	Yes ^m	Yes
42. Taos and Rio Arriba counties	Abiquiu, NM	6/15/17	-	-	.38 caliber revolver	No	No
43. Fiamma Workplace	Orlando, FL	6/5/17	-	semiautomatic handgun	semiautomatic rifle (2) handgun (2)	No	No
44. Marathon Savings Bank	Rothschild, WI	3/22/17	-	-	Rifle, handgun	No	No
45. Club 66	Yazoo City, MS	2/6/17	-	-	-	-	-
46. Fort Lauderdale Airport	Fort Lauderdale, FL	1/6/17	-	Walther 9mm semi-automatic pistol	9mm semiautomatic handgun	No	No
47. Cascade Mall	Burlington, WA	9/23/16	-	Ruger .22-caliber	Ruger .22-caliber rifle	No ⁿ	No
48. Dallas Police	Dallas, T	7/7/16	-	I hmash Saiga . mm (A style) semiautomatic rifle with large capacity magazines Glock 9mm handgun, .25-caliber semiautomatic handgun	S S type semiautomatic rifle	Yes ^o	Yes
49. Walgreens Parking Lot	Las Vegas, NV	6/29/16	-	-	-	-	-
50. Orlando Nightclub	Orlando, FL	6/12/16	-	Sig Sauer MC rifle, Glock 17 9mm high-capacity magazines (30 rounds)	. cali er Sig Sauer MC semiautomatic rifle 9mm semiautomatic glock 17 pistol	Yes ^p	Yes
51. Franklin Avenue Cookout	Wilksburg, PA	3/9/16	-	-	A style rifle, .40-caliber handgun	Yes	Yes
52. Kalamazoo	Kalamazoo County, MI	2/20/16	-	9 mm handgun (ammo used unclear)	Walther P-99 9mm semiautomatic handgun	No	No

#9996

Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault Weapon ^d	Assault Rifle ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c		
()	()	()	()	()	()	()	()
53. San Bernardino	San Bernardino, CA	12/2/15		Two semiautomatic AR style rifles, one a DPMS AR style rifle, the other a Smith & Wesson M&P .5, both with .223 calibre ammunition. Two 9mm semiautomatic handguns. High capacity magazines.	DPMS AR style rifle Smith & Wesson M&P AR style rifle Llama semiautomatic 9mm pistol Smith & Wesson semiautomatic 9mm pistol	Yes ^q	Yes
54. Tennessee Colony campsite	Anderson County, T	11/15/15		-	-	-	-
55. Umpqua Community College	Roseburg, OR	10/1/15		9 mm Glock pistol, .40 caliber Smith & Wesson, .40 caliber Taurus pistol, .556 caliber Del-Ton (ammo details unclear)	rifle five pistols	No ^r	No
56. Chattanooga Military Center	Chattanooga, TN	7/16/15		A, AR-15, and 30-round magazines 9mm handgun	AR-15-style semiautomatic rifle 9mm pistol A type semiautomatic rifle	Yes ^s	Yes
57. Charleston Church	Charleston, SC	6/17/15		.45-caliber Glock (model 41, with 13-round capacity magazine)	.45-caliber glock 41 pistol	No	No
58. Marysville High School	Marysville, WA	10/24/14		Beretta .40-caliber handgun	.40-caliber beretta pistol	No	No
59. Isla Vista	Santa Barbara, CA	5/23/14		Two Sig Sauer P226 semiautomatic pistols and Glock 34 pistol, and hundreds of rounds of ammo. A 6- inchand 8-inch "SRK" and "Boar Hunter" hunting knives.	Sig Sauer P226s pistol Glock 34 pistol Sig Sauer P226s pistol	No	No
60. Alturas Tribal	Alturas, CA	2/20/14		9mm semi-automatic handgun	Unknown	No	No
61. Washington Navy Yard	Washington, D.C.	9/16/13		Remington 870 Express 12-gauge shotgun Beretta handgun	beretta pistol Remington 970 Express 12-gauge shotgun	No	No
62. Hialeah	Hialeah, FL	7/26/13		Glock 17	Glock 17 pistol	No	No
63. Santa Monica	Santa Monica, CA	6/7/13		.45-caliber semi automatic assault rifle, about 40 high capacity magazines, "black powder" handgun (likely antique)	Black powder .33-caliber handgun AR type .45-caliber semiautomatic rifle	Yes ^t	Yes
64. Federal Way	Federal Way, WA	4/21/13		.40 caliber semi-automatic handgun, pistol grip shotgun	.40 caliber semiautomatic pistol pistol grip shotgun	No ^u	No
65. Upstate New York	Herkimer County, NY	3/13/13		Unknown	Unknown	No ^v	No
66. Newtown School	Newtown, CT	12/14/12	An unknown make and model .45-caliber rifle, a Bushmaster M1 .45-caliber semiautomatic assault rifle equipped with a 30-round large capacity ammunition magazine, and a GLOCK 10mm handgun were used. According to the Danbury State's Attorney, police also recovered in Lanza's possession a SIG SAUER P226 9mm handgun and three loaded 30-round large capacity ammunition magazines were recovered at the scene. A loaded unknown make and model 12-gauge shotgun was found in the passenger compartment of the car (later moved to the trunk by police). All of the guns used in the shooting were purchased by Lanza's mother.	10mm Glock, 9mm SIG Sauer P226 semiautomatic handguns .45-caliber Bushmaster M1 E S semiautomatic rifle Izhmash Saiga-12 12-gauge semiautomatic shotgun	9mm SIG Sauer P226 pistol Savage Mark II bolt-action .22-caliber rifle .22-caliber Bushmaster M1 E S semiautomatic rifle Izhmash Saiga 12-gauge semiautomatic shotgun 10mm Glock pistol	Yes ^w	Yes

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Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault Weapon ^d	Assault Rifle ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c		
()	()	()	()	()	()	()	()
67. Accent Signage Systems	Minneapolis, MN	9/27/12	GLOCK 9mm semiautomatic pistol equipped with a round large capacity ammunition magazine. Engeldinger purchased the firearm one year before the shooting at GS Guns and Ammo in Minneapolis after passing a background check and obtaining a permit to purchase. Police reportedly found packaging for rounds of ammunition and another handgun in Engeldinger's home.	9mm Glock semiautomatic handgun	9mm glock pistol	No	No
68. Sikh Temple	Oak Creek, WI	8/5/12	Springfield Armory D(M) 9mm semiautomatic handgun equipped with a round large capacity ammunition magazine. Weeks before the shooting, Wade legally purchased the handgun and three round large capacity ammunition magazines from a federal firearms licensed dealer in nearby West Allis, WI. According to media reports, Wade served in the U.S. Army from until , when he was given an other than honorable discharge or general discharge. In , while stationed at Fort Bliss in Texas, he was arrested by El Paso police, and pled guilty to a misdemeanor charge of criminal mischief. Federal law does not prohibit persons with convictions for misdemeanors other than domestic violence misdemeanors or persons who have been discharged from the military for reasons other than "dishonorably" from purchasing firearms.	9mm Springfield Armory D(M) semiautomatic handgun	9mm springfield armory D(M) pistol	No	No
69. Aurora Movie Theater	Aurora, CO	7/20/12	A Smith & Wesson M&P assault rifle equipped with a round drum large capacity ammunition magazine, a Remington Model gauge pump shotgun, and two GLOCK .40-caliber handguns, were recovered at the scene by police. In the months leading to the shooting, Holmes purchased the weapons and rounds of ammunition at gun shops and over the Internet. In addition to the weapons used in the shooting, Holmes also trapped his apartment, rigging trip wire to detonate plastic shells stuffed with gunpowder, several glass jars filled with gasoline and gunpowder, and gallons of gasoline in canisters.	Two .40-caliber Glock semiautomatic handguns .40-caliber Smith & Wesson M&P semiautomatic rifle 12-gauge Remington 870 pump-action shotgun	.40-caliber glock pistol 12-gauge pump-action Remington 870 shotgun .40-caliber Smith & Wesson M&P semiautomatic AR style rifle	Yes ^x	Yes
70. Seattle Caf	Seattle, WA	5/30/12		Two .45-caliber semiautomatic handguns	.45-caliber pistol (2)	No	No
71. Oikos University	Oakland, CA	4/2/12		.45-caliber semiautomatic handgun	.45-caliber pistol	No	No
72. Su Jung Health Sauna	Norcross, GA	2/22/12		.45-caliber semiautomatic handgun	-	No	No
73. Seal Beach	Seal Beach, CA	10/14/11		.45-caliber Heckler & Koch, 9mm Springfield semiautomatic handguns .44 Magnum Smith & Wesson revolver	-	No	No
74. IHOP	Carson City, NV	9/6/11	A type assault rifle equipped with a 30-round large capacity ammunition magazine. Two additional guns and two more magazines were found in his vehicle.	A Norinco Arms variant, A Romarm Cugir variant rifles .38-caliber Colt revolver	A variant semiautomatic rifle	Yes ^y	Yes
75. Akron	Akron, OH	8/7/11		-	-	No ^z	No

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Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault	Assault
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c	Weapon ^d	Rifle ^d
()	()	()	()	()	()	()	()
76. Forum Roller World	Grand Prairie, TX	7/23/11		-	-	No ^{aa}	No
77. Grand Rapids	Grand Rapids, MI	7/7/11	GLOCK 9mm semiautomatic pistol (unknown model) equipped with a round large capacity ammunition magazine.	-	-	No	No
78. Family law practice	Yuma, AZ	6/2/11		-	-	-	-
79. Tucson	Tucson, AZ	1/8/11	GLOCK 9mm semiautomatic pistol equipped with a round large capacity ammunition magazine. Loughner was also carrying two round large capacity ammunition magazines, and a knife. The ATF determined Loughner legally purchased the GLOCK pistol with an extended magazine and one box of Winchester ammunition on November 1, 2009, from Sportsman's Warehouse in Tucson.	9mm Glock 19 semiautomatic handgun	9mm glock 19 pistol	No	No
80. Jackson	Jackson, KY	9/11/10		-	-	No ^{ab}	No
81. City Grill	Buffalo, NY	8/14/10		-	9mm pistol	No	No
82. Hartford Beer Distributor	Manchester, CT	8/3/10	Two Ruger SR 9mm semiautomatic pistols equipped with round magazines. Thornton purchased both firearms legally from an East Windsor, CT gun dealer.	Two 9mm Ruger SR9 semiautomatic handguns	9mm Ruger SR9 pistol (2)	No	No
83. Yoyito Caf	Hialeah, FL	6/6/10		-	.45-caliber Glock pistol	No ^{ac}	No
84. Hot Spot Caf	Los Angeles, CA	4/3/10		-	-	No ^{ad}	No
85. Coffee Shop Police	Parkland, WA	11/29/09		9mm Glock 17 semiautomatic handgun .38-caliber Smith & Wesson revolver	.38-caliber Smith & Wesson revolver 9mm Glock 17 pistol	No	No
86. Fort Hood	Fort Hood, TX	11/5/09	FN Fero tactical . Tactical Pistol equipped with round large capacity ammunition magazine. When Hasan was apprehended, investigators found in his possession rounds in round and round large capacity ammunition magazines, another handgun, a revolver, and two gunsights (for different lighting conditions). Hasan purchased the FN Fero tactical . Tactical Pistol legally at Guns Galore, a shop in Millen, TX	FN Five-seven semiautomatic handgun	FN Five-seven pistol	No	No
87. Worth Street	Mount Airy, NC	11/1/09		-	High-powered assault style rifle	Yes	Yes
88. Binghamton	Binghamton, NY	4/3/09	Beretta .45-caliber semiautomatic pistol, Beretta 9mm semiautomatic pistol (models unknown), and two round large capacity ammunition magazines and two round large capacity ammunition magazines.	9mm Beretta, .45-caliber Springfield semiautomatic handguns	9mm Beretta pistol .45-caliber Springfield pistol	No	No
89. Carthage Nursing Home	Carthage, NC	3/29/09		Winchester 1300 pump-action shotgun .357 Magnum revolver	.357 magnum revolver Winchester 1300 pump-action shotgun	No	No
90. Skagit County	Alger, WA	9/2/08		-	lever-action winchester rifle, handgun	No	No
91. Atlantis Plastics	Henderson, KY	6/25/08		.45-caliber Hi-Point semiautomatic handgun	.45-caliber Hi-Point pistol	No	No
92. Black Road Auto	Santa Maria, CA	3/18/08		-	semiautomatic handgun	No	No

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Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault Weapon ^d	Assault Rifle ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c		
()	()	()	()	()	()	()	()
93. Northern Illinois University	DeKalb, IL	2/14/08	SIG SAUER 9mm semiautomatic pistol, Hi-Point CF 9mm semiautomatic pistol, GLOCK 9mm semiautomatic pistol, Remington Sportsman gauge shotgun, and round and round large capacity ammunition magazines. A miere a purchased all four weapons from Tony's Gun & Ammo in Champaign, IL between August, and February, . A miere a also purchased gun accessories from a website operated by TGSCOM, Inc., the same company patronized by the VA Tech shooter.	9mm Glock 19, Hi-Point CF380, 9mm Kurz SIG Sauer P232 semiautomatic handguns 12-gauge Remington Sportsman 48 sawed-off shotgun	12-gauge Remington Sportsman 48 sawed-off shotgun 9mm Glock 19 pistol 9mm Kurz SIG Sauer P232 pistol Hi-Point CF380 pistol	No ^{ae}	No
94. Kirkwood City Council	Kirkwood, MO	2/7/08		.40-caliber Smith & Wesson semiautomatic handgun .44 Magnum Smith & Wesson Model 29 revolver	.40-caliber Smith & Wesson pistol .44 Magnum Smith & Wesson Model 29 revolver	No	No
95. Youth With a Mission and New Life Church	Colorado Springs, CO	12/9/07		-	A pistol, .40-caliber Bushmaster M rifle, .40-caliber Beretta pistol	Yes	Yes
96. Westroads Mall	Omaha, NE	12/5/07	WASR semiautomatic assault rifle and two round large capacity ammunition magazines.	WASR Century Arms semiautomatic rifle	WASR Century Arms semiautomatic rifle	Yes ^{af}	Yes
97. Crandon	Crandon, WI	10/7/07		AR-15 SWAT semiautomatic rifle	AR-15-style semiautomatic rifle	- ^{ag}	-
98. Virginia Tech	Blacksburg, VA	4/16/07	GLOCK 9mm semiautomatic pistol and Walther P 9mm semiautomatic pistol. Investigators found a total of empty magazines at the scene of the shooting, a mix of several round, and round magazines loaded with hollow point rounds (bullets with the tip hollowed out, designed to expand upon impact). He possessed over rounds of ammunition. Cho ordered the Walther P from a website operated by TGSCOM, Inc. A miere a patronized the same company before the NIU shooting. On February, , Cho picked up the pistol from N D Pawn rooms, located across the street from the VA Tech campus. In compliance with the state law limiting handgun purchases to one every days, Cho purchased the GLOCK on March, . He also purchased five round magazines from eBay in March. Cho's purchase of these firearms was in violation of federal law he was disqualified from purchasing or possessing a firearm and ammunition, because a special justice of the Montgomery County General District Court had found him to be a danger to himself on December, .	9mm Glock 19, .22-caliber Walther P22 semiautomatic handguns	.22-caliber Walther P22 pistol 9mm Glock 19 pistol	No	No
99. Trolley Square	Salt Lake City, UT	2/12/07		Mossberg Maverick 88 Field shotgun .38-caliber Smith & Wesson M36 revolver	.38-caliber Smith & Wesson M36 revolver Mossberg Maverick 88 Field shotgun	No	No
100. Amish School	Lancaster County, PA	10/2/06		Springfield semiautomatic handgun .30-06 Ruger bolt-action rifle 12-gauge Browning pump-action shotgun	12-gauge Browning pump-action shotgun .30-06 Ruger bolt-action rifle Springfield 9mm semiautomatic handgun	No ^{ah}	No
101. The Ministry of Jesus Christ	Baton Rouge, LA	5/21/06		-	-	No ^{ai}	No

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Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault	Assault
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c	Weapon ^d	Rifle ^d
()	()	()	()	()	()	()	()
102. Capitol Hill	Seattle, WA	3/25/06		.40-caliber Ruger, one other semiautomatic handgun Smith & Wesson semiautomatic rifle 12-gauge Winchester Defender pump-action shotgun with extended tube and pistol grip	12-gauge pump-action Winchester Defender shotgun .40-caliber Ruger pistol	Yes ^{aj}	Yes
103. Goleta Postal	Goleta, CA	1/30/06	Smith & Wesson 9mm semiautomatic handgun equipped with a round large capacity ammunition magazine. San Marco purchased the firearm at a pawn shop in New Mexico in August .	9mm Smith & Wesson 915 semiautomatic handgun	9mm Smith & Wesson 915 pistol	No	No
104. Sash Assembly of God	Sash, T	8/29/05		-	9mm semiautomatic pistol, .38- caliber revolver	No	No
105. Red Lake	Red Lake, MN	3/21/05		.40-caliber Glock 23, .22-caliber Ruger semiautomatic handguns 12-gauge Remington 870 shotgun	.22-caliber Ruger pistol (2) 12- gauge Remington 870 shotgun	No	No
106. Living Church of God	Brookfield, WI	3/12/05		9mm Beretta semiautomatic handgun	9mm beretta pistol	No	No
107. Fulton County Courthouse	Atlanta, GA	3/11/05		-	9mm pistol	No	No
108. Damageplan Show	Columbus, OH	12/8/04		9mm Beretta 92FS semiautomatic handgun	9mm beretta 92FS pistol	No	No
109. Hunting Camp	Meteor, WI	11/21/04	Smith & Wesson 5.56 mm semiautomatic assault rifle equipped with a round large capacity ammunition magazine.	-	5.56 mm Smith & Wesson semiautomatic rifle	Yes ^{ak}	Yes
110. ConAgra Foods Plant	Kansas City, KS	7/3/04		-	9mm pistol, revolver	No	No
111. Stateline Tavern	Oldtown, ID	10/24/03		-	semiautomatic pistol	No	No
112. Windy City Warehouse	Chicago, IL	8/27/03		-	.38-caliber Walther pistol	No ^{al}	No
113. Lockheed Martin	Meridian, MS	7/8/03		.45-caliber Ruger P90 semiautomatic handgun .22- caliber rifle with scope, .223- caliber Ruger Mini-14 rifle 12- gauge Winchester 1300 shotgun .22 Magnum derringer	.223-caliber Ruger Mini-14 rifle 12-gauge Winchester 1300 shotgun	No ^{am}	No
114. Labor Ready	Huntsville, AL	2/25/03		-	semiautomatic 9mm pistol	No	No
115. Bertrand Products	South Bend, IN	3/22/02		-	.22-caliber rifle, sawed-off shotgun	No	No
116. Burns International Security	Sacramento, CA	9/10/01		-	AR type semiautomatic rifle, 9mm pistol	Yes ^{an}	Yes
117. Bookcliff RV Park	Rifle, CO	7/3/01		-	.38 caliber Charter Arms revolver	No	No
118. Navistar	Melrose Park, IL	2/5/01		SKS 1954R, .30-caliber Winchester rifles 12-gauge Remington pump-action shotgun .38-caliber revolver	12-gauge Remington pump-action shotgun SKS 1954R rifle .30- caliber Winchester rifle .38- caliber revolver	No ^{ao}	No
119. Houston	Houston, T	1/9/01		-	-	No ^{ap}	No

#10001

Exhibit C

**List of Firearms Used in Public Mass Shootings
October**

Case	Location	Date	Weapon Description From			Assault Weapon ^d	Assault Rifle ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c		
()	()	()	()	()	()	()	()
120. Wakefield	Wakefield, MA	12/26/00	A type semiautomatic assault rifle, unknown make and model 12-gauge shotgun, unknown make and model .32-caliber semiautomatic pistol, and 60-round large capacity ammunition magazine.	.32-caliber Retolaza semiautomatic handgun A variant semiautomatic rifle 12-gauge Winchester 1300 pump-action shotgun	.32-caliber Retolaza pistol AK-47 variant semiautomatic rifle 12-gauge Winchester 1300 pump-action shotgun	- aq	-
121. Mount Lebanon	Pittsburgh, PA	4/28/00		-	.357 Magnum revolver	No	No
122. Mi-T-Fine Car Wash	Irving, T	3/20/00		-	semiautomatic .9mm pistol	No	No
123. Hotel	Tampa, FL	12/30/99		9mm Lorcin semiautomatic handgun .38-caliber Charter Arms revolver	.38-caliber Charter Arms revolver 9mm Lorcin pistol	No	No
124.erox	Honolulu, HI	11/2/99	GLOCK mm semiautomatic pistol and three round large capacity ammunition magazines, loaded with hollow point bullets (bullets with the tip hollowed out, designed to expand upon impact). Uyesugi legally purchased the GLOCK in . Ruger P mm semiautomatic pistol, unknown make and model . cali er semiautomatic pistol, and three round large capacity ammunition magazines. Ash roo legally acquired oth weapons from federally licensed firearms dealers in .	9mm Glock 17 semiautomatic handgun	9mm Glock 17 pistol	No	No
125. Wedgwood Baptist Church	Fort Worth, T	9/15/99		.380-caliber, 9mm Ruger P85 semiautomatic handguns	.380-caliber revolver 9mm Ruger P85 pistol	No	No
126. Atlanta Day Trading	Atlanta, GA	7/29/99		.45-caliber Colt 1911-A1, 9mm Glock 17, .25-caliber Raven Arms MP-25 semiautomatic handguns .22-caliber Harrington & Richardson revolver	.45-caliber Colt 1911-A1 pistol .22-caliber Harrington & Richardson revolver .25-caliber Raven Arms Mp-25 pistol 9mm Glock 17 pistol	No	No
127. Albertson's Supermarket	Las Vegas, NV	6/3/99		-	12-gauge pump-action shotgun	No	No
128. Columbine High School	Littleton, CO	4/20/99	Savage Springfield gauge pump action shotgun, Savage Stevens D gauge sawedoff shotgun, i Point mm semiautomatic rifle, INTRATEC TEC DC mm semiautomatic pistol, and thirteen 10-round magazines, one 52-, one 32-, one 28-round large capacity ammunition magazines. Harris and Klebold illegally acquired the shotguns and Hi-Point rifle through a "straw purchase" (a transaction in which a legal buyer makes a purchase for someone who cannot legally purchase the firearm). Their friend, Robyn Anderson, purchased the three firearms at the Tanner Gun Show from unlicensed sellers in December of 1998. A pizza shop employee, Mark Manes, illegally sold them the INTRATEC TEC-DC9.	mm Intratec DC semiautomatic handgun mm i Point car ine rifle 12-gauge sawed-off Savage Stevens 311D, 12-gauge sawed-off Savage Springfield 67H pump-action shotguns	mm i Point car ine 12-gauge sawed-off Savage Stevens 311D shotgun 12-gauge sawed-off Savage Springfield 67H pump-action shotgun mm Intratec DC machine pistol	Yes ar	Yes
129. New St. John Fellowship Baptist Church	Gonzalez, LA	3/10/99		-	semiautomatic pistol	No	No
130. Thurston High School	Springfield, OR	5/21/98	GLOCK mm semiautomatic pistol, Ruger (un nown model) . cali er semiautomatic pistol, Ruger (un nown model) . cali er rifle, and a round large capacity ammunition magazine. The GLOCK and rifle were legally purchased y in el's father.	9mm Glock, .22-caliber Ruger semiautomatic handguns, .22-caliber Ruger rifle	9mm Glock pistol .22-caliber Ruger pistol .22-caliber Ruger rifle	No as	No

#10002

Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault Weapon ^d	Assault Rifle ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c		
()	()	()	()	()	()	()	()
131. Westside Middle School	Jonesboro, AR	3/24/98	Universal M-1 Carbine .38-caliber replica, Davis Industries .38-caliber two shot derringer, Double Deuce .38-caliber two shot derringer, Charter Arms .38-caliber revolver, Star .38-caliber pistol, FIE .38-caliber pistol, Ruger Security Six .38-caliber revolver, Ruger .38-caliber magnum rifle, Smith & Wesson .38-caliber revolver, Remington .38-caliber rifle, round large capacity ammunition magazines, three round large capacity ammunition magazines, and over rounds of ammunition.	FIE 380, .380-caliber Star semiautomatic handguns .44 Magnum Ruger, .30-06 Remington 742, .30-caliber Universal M-1 carbine replica rifles .38-caliber Charter Arms, .357-caliber Ruger Security Six, .38-caliber Smith & Wesson revolvers .22-caliber Double Deuce Buddie two-shot, .38-caliber Davis Industries two-shot derringers	.22-caliber Double Deuce revolver .380-caliber Star pistol .357-caliber Ruger Security six revolver .44 Magnum Ruger revolver .30-caliber Universal M-1 carbine .38-caliber Charter Arms revolver .38-caliber Smith & Wesson revolver FIE 380 pistol .30-06 Remington 742 rifle	No ^{at}	No
132. Connecticut Lottery	Newington, CT	3/6/98	GLOCK model unknown mm semiautomatic pistol equipped with a round large capacity ammunition magazine. He had a permit for the mm pistol used in the shooting.	9mm semiautomatic handgun	9mm pistol	No	No
133. Caltrans Maintenance Yard	Orange, CA	12/18/97	Chinese made A type . mm semiautomatic assault rifle and five 30-round large capacity ammunition magazines. Torres legally purchased the rifle on April 30, 1988, from B&B Gun Sales in Orange County, CA.	7.62mm A Chinese variant semiautomatic rifle	7.62mm A Chinese variant semiautomatic rifle	Yes	Yes
134. Erie Manufacturing	Bartow, FL	12/3/97		-	-	No ^{au}	No
135. R.E. Phelon Company	Aiken, SC	9/15/97		9mm semiautomatic handgun	9mm pistol	No	No
136. News and Sentinel	Colebrook, NH	8/20/97		-	9mm pistol, AR style rifle	Yes ^{av}	Yes
137. Fire Station	Jackson, MS	4/25/96		-	Mac 11 machine pistol, Tec 9 automatic pistol, .45-caliber semiautomatic handgun	No	No
138. Fort Lauderdale	Fort Lauderdale, FL	2/9/96		9mm Glock semiautomatic handgun .32-caliber revolver	9mm Glock pistol .32-caliber revolver	No	No
139. Little Chester Shoes	New York, NY	12/19/95		-	.9mm semiautomatic pistol	No	No
140. Piper Technical Center	Los Angeles, CA	7/19/95		-	Glock semiautomatic pistol	No ^{aw}	No
141. Walter Rossler Company	Corpus Christi, T	4/3/95		9mm Ruger semiautomatic handgun .32-caliber revolver	.32-caliber revolver 9mm Ruger pistol	No	No
142. Puppy creek	Hoke County, NC	12/31/94		-	-	-	-
143. Air Force Base	Fairchild Base, WA	6/20/94	Chinese made Makarov semiautomatic assault rifle equipped with a 75-round drum large capacity ammunition magazine. He purchased the assault rifle on June 15, 1994, five days before the shooting, and the following day purchased 80 rounds of 7.62x39mm ammunition and a 75-round drum large capacity ammunition magazine.	MAK semiautomatic rifle	MAK-90 semiautomatic AK-style rifle	Yes ^{ax}	Yes
144. Chuck E. Cheese	Aurora, CO	12/14/93		.25-caliber semiautomatic handgun	.25-caliber pistol	No	No
145. Long Island Railroad	Garden City, NY	12/7/93	Ruger P-22 mm semiautomatic pistol and four round large capacity ammunition magazines. Ferguson legally acquired the weapon in California at an outlet of Turner's Outdoorsman.	9mm Ruger P89 semiautomatic handgun	9mm Ruger P89 pistol	No	No
146. Unemployment Office	Oxnard, CA	12/2/93		-	Rifle	-	-
147. Family Fitness Club	El Cajon, CA	10/14/93		-	12-gauge shotgun	No	No

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Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault Weapon ^d	Assault Rifle ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c		
()	()	()	()	()	()	()	()
148. Luigi's Restaurant	Fayetteville, NC	8/6/93		.22-caliber rifle two 12-gauge shotguns	12-gauge shotgun (2) .22-caliber rifle	No ^{ay}	No
149. Washington County Bar	Jackson, MS	7/8/93		-	-	-	-
150. 101 California Street	San Francisco, CA	7/1/93	Two INTRATEC TEC DC semiautomatic pistols, Colt (unknown model) .45-caliber semiautomatic pistol, and 40-round and 50-round large capacity ammunition magazines loaded with a mix of Black Talon and standard ammunition. According to the Las Vegas Metropolitan Police Department, Ferri purchased the pistols from two stores in Las Vegas: Super Pawn and Pacific Tactical Weapons.	Two Intratec DC .45-caliber Colt semiautomatic handguns	.45-caliber Colt pistol Intratec DC machine pistols	Yes ^{az}	No
151. Card club	Paso Robles, CA	11/8/92		-	-	No ^{ba}	No
152. Watkins Glen	Watkins Glen, NY	10/15/92		9mm Llama semiautomatic handgun	9mm Llama pistol	No	No
153. Lindhurst High School	Olivehurst, CA	5/1/92		.22-caliber sawed-off rifle 12-gauge pump-action shotgun	.22-caliber sawed-off rifle 12-gauge pump-action shotgun	No ^{bb}	No
154. Phoenix	Phoenix, A	3/15/92		-	-	-	-
155. Royal Oak Postal	Royal Oak, MI	11/14/91		.22-caliber Ruger sawed-off semiautomatic rifle	.22-caliber Ruger sawed-off semiautomatic rifle	No ^{bc}	No
156. Restaurant	Harrodsburg, KY	11/10/91		-	.357 Magnum	No	No
157. University of Iowa	Iowa City, IA	11/1/91		.38-caliber Taurus revolver	.38-caliber Taurus revolver	No	No
158. Luby's Cafeteria	Killeen, T	10/16/91	GLOCK 9mm semiautomatic pistol, Ruger P semiautomatic pistol, and 40-round and 50-round large capacity ammunition magazines. Kennard legally purchased the weapons from Mike's Gun Shop in Henderson, NV, in February and March of 1991.	9mm Glock 17, 9mm Ruger P89 semiautomatic handguns	9mm Glock 17 pistol 9mm Ruger P89 pistol	No	No
159. Post office	Ridgewood, NJ	10/10/91		-	9mm Uzi machine pistol, .22-caliber machine gun	Yes ^{br}	No
160. GMAC	Jacksonville, FL	6/18/90	Universal M1 .38-caliber semiautomatic assault rifle, unknown make and model .38-caliber revolver, and a 40-round large capacity ammunition magazine.	.30-caliber Universal M1 carbine rifle .38-caliber revolver	.30-caliber Universal M1 carbine .38-caliber revolver	No ^{bd}	No
161. Standard Gravure Corporation	Louisville, KY	9/14/89	Chinese made AK-47 type semiautomatic assault rifle, two INTRATEC MAC-11 semiautomatic assault pistols, SIG SAUER unknown model 9mm semiautomatic pistol, unknown make and model .38-caliber revolver, and 30-round large capacity ammunition magazines. Wesbecker legally purchased the AK-47-type assault rifle from Tilford's Gun Sales in Louisville.	Two Intratec MAC-11, 9mm SIG Sauer semiautomatic handguns A Chinese variant semiautomatic rifle .38-caliber revolver	9mm SIG Sauer pistol A Chinese variant semiautomatic rifle Intratec MAC-11 machine pistol .38-caliber revolver 9mm SIG Sauer pistol	Yes	Yes
162. Stockton Schoolyard	Stockton, CA	1/17/89	Chinese made AK-47 type semiautomatic assault rifle, Taurus unknown model 9mm semiautomatic pistol, a 75-round large capacity ammunition drum magazine, a 75-round large capacity ammunition rotary magazine, and four 35-round large capacity ammunition banana magazines. Purdy legally purchased the AK-47-type rifle at Sandy Trading Post, in Sandy, OR on August 3, 1988, and the Taurus 9mm pistol at Hunter Loan and Jewelry Co. in Stockton, CA on December 28, 1988.	9mm Taurus semiautomatic handgun A Chinese variant semiautomatic rifle	9mm Taurus pistol A Chinese variant semiautomatic rifle	Yes	Yes

#10004

Exhibit C

List of Firearms Used in Public Mass Shootings
October

Case	Location	Date	Weapon Description From			Assault	Assault
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c	Weapon ^d	Rifle ^d
()	()	()	()	()	()	()	()
163. Montefiore School	Chicago, IL	9/22/88		-	.38-caliber revolver	No	No
164. Old Salisbury Road	Winston-Salem, NC	7/17/88		-	.22-caliber rifle	No	No
165. ESL	Sunnyvale, CA	2/16/88		.380 ACP Browning, 9mm Smith & Wesson semiautomatic handguns Ruger M-77 .22-250 bolt-action rifle with scope Mossberg 12-gauge pump-action, 12-gauge Benelli semiautomatic shotguns .357 Magnum Smith & Wesson, .22 Sentinel WMR revolvers	.22 Sentinel WMR revolver 9mm Smith & Wesson pistol Mossberg 12-gauge pump-action shotgun Ruger M-77 .22-250 bolt-action rifle with scope .380 AP Browning pistol 12-gauge Benelli semiautomatic shotgun .357 Magnum Smith & Wesson revolver	No ^{be}	No
166. Shopping Centers	Palm Bay, FL	4/23/87	Strum, Ruger Mini-14 semiautomatic assault rifle equipped with a round large capacity ammunition magazine, five round large capacity ammunition magazines, rounds of ammunition, a shotgun (unknown make and model), and a pistol (unknown make and model). Cruse ordered the assault rifle on March 1, 1987. On April 1, 1987, he purchased rounds of ammunition and six round large capacity ammunition magazines.	Sturm, Ruger Mini-14 semiautomatic rifle 20-gauge Winchester pump-action shotgun .357 Ruger Blackhawk revolver	.357 Ruger Blackhawk revolver Ruger Mini-14 semiautomatic rifle Sturm 20-gauge Winchester pump-action	No ^{bf}	No
167. United States Postal Service	Edmond, OK	8/20/86		.22-caliber, two .45-caliber Colt Model 1911-A1 semiautomatic handguns	.45-caliber Colt Model 1911-A1 pistol .45-caliber Colt Model 1911-A1 pistol .22-caliber pistol	- ^{bg}	No
168. Anchor Glass Container Corporation	South Connellsville, PA	3/16/85		-	.38-caliber snub-nosed revolver	No	No
169. Other Place Lounge	Hot Springs, AR	7/24/84		-	.45-caliber semiautomatic pistol	No	No
170. San Ysidro McDonald's	San Ysidro, CA	7/18/84		9mm Browning P35 Hi-Power semiautomatic handgun 9mm Israeli Military Industries Uzi Model A carbine semiautomatic rifle 12-gauge Winchester 1200 pump-action shotgun	9mm Israeli Military Industries Uzi Model A machine pistol, 12-gauge Winchester 1200 pump-action shotgun, 9mm Browning P35 Hi-Power pistol	Yes	Yes
171. Dallas Nightclub	Dallas, TX	6/29/84		9mm Smith & Wesson 459 semiautomatic handgun	9mm Smith & Wesson 459 pistol	No ^{bh}	No
172. Alaska Mining Town	Manley Hot Springs, AK	5/17/84		-	.30-06-caliber Ruger single-shot rifle	No	No
173. College Station	College Station, TX	10/11/83		-	-	No ^{bi}	No
174. Alaska Back-County	McCarthy, AK	3/1/83		-	.223-caliber Ruger Mini-14 semiautomatic rifle, .22-caliber pistol	No	No
175. Upper West Side Hotel	New York, NY	2/3/83		-	-	No ^{bj}	No
176. The Investor	Noyes Island, AK	9/6/82		-	.22-caliber	No	No
177. Welding Shop	Miami, FL	8/20/82		Mossberg 500 Persuader pump-action shotgun with pistol grip	12-gauge shotgun	No	No
178. Western Transfer Co.	Grand Prairie, TX	8/9/82		-	.38-caliber revolver, .25-caliber semiautomatic pistol, carbine rifle	No	No
179. Russian Jack Springs Park	Anchorage, AK	5/3/82		-	.38-caliber pistol	No	No

#10005

Exhibit C

List of Firearms Used in Public Mass Shootings **October**

Case	Location	Date	Weapon Description From			Assault Weapon ^d	Assault Rifle ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c		
()	()	()	()	()	()	()	()

Notes and Sources

Public Mass Shootings from Mother Jones ("US Mass Shootings, 1982-2022: Data from Mother Jones Investigation," updated November 23, 2022), the Citizens Crime Commission of New York City ("Mayhem Multiplied: Mass Shooters and Assault Weapons," February 2018 update, and "Citizens Crime Commission of New York City, Mass Shooting Incidents in America (1984-2012)," accessed June 1, 2017), Washington Post ("The Terrible Numbers That Grow With Each Mass Shooting," updated May 12, 2021) and The Violence Project ("Mass Shooter Database," updated May 14, 2022). Identified Assault Weapons are in bold.

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^b Description of weapons from Mother Jones ("US Mass Shootings, 1982-2022: Data from Mother Jones Investigation," updated November 23, 2022).

^c Description of weapons from Washington Post ("The Terrible Numbers That Grow With Each Mass Shooting," updated May 12, 2021).

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#10006

Exhibit C

List of Firearms Used in Public Mass Shootings October

Case	Location	Date	Weapon Description From			Assault Weapon ^d	Assault Rifle ^d
			Citi ens Crime Commission ^a	Mother ones ^b	Washington Post ^c		
()	()	()	()	()	()	()	()
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^r "Umpqua Community College 2015 shooting report: What we've learned," <i>Theregonian</i> , September 8, 2017.							
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^{ac} "Hialeah: Only the Latest Mass Shooting by a Concealed Carry Killer," Huffington Post, July 30, 2013 "Hialeah gunman s rage over estranged wife leaves 5 dead," <i>Sun Sentinel</i> , June 7, 2010.							
^{ad} "Man convicted of killing 4 at Los Angeles restaurant," <i>Associated Press</i> , March 15, 2016.							
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^{ao} "Workplace Deaths Leave No One Untouched," <i>Chicago Tribune</i> , February 7, 2001 "Update 1-Source of guns used in US factory shootings sought," <i>Associated Press</i> , February 6, 2011 "SKS Rifle: Simonov Type 56," <i>Department of the Army</i> , October 1969,							

#10007

Exhibit C

**List of Firearms Used in Public Mass Shootings
October**

Case	Location	Date	Weapon Description From			Assault Weapon ^d	Assault Rifle ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c		
()	()	()	()	()	()	()	()
<p>http://pdf.textfiles.com/manuals/FIREARMS/sks_56.pdf, accessed October 24, 2018 "Why .30-30 Winchester Will Never Die," <i>NRA</i>, February 2, 2016 "Firearms Tutorial: Terminology,"</p> <p>https://library.med.utah.edu/WebPath/TUTORIAL/GUNS/GUNTERM.html, accessed October 24, 2018.</p> <p>ap "Houston Rampage Leaves 4 Victims, Gunman Dead," <i>The Record</i>, January 10, 2001.</p> <p>aq "Man Charged in Killings Evaded Strict Gun Laws," <i>New York Times</i>, December 28, 2000.</p> <p>ar "How they were equipped that day," <i>Jefferson County Sheriff</i>, http://www.cnn.com/SPECIALS/2000/columbine.cd/Pages/EQUIPMENT_T.html, accessed September 26, 2018.</p> <p>as "What You Should Know About .22 Rimfire," <i>NRA</i>, August 16, 2017, Kipland Philip Kinkel v. Rob Persson, 13C13698 A155449 (2018) Ruger Homepage, https://ruger.com/, accessed October 24, 2018.</p> <p>at "Powerful, semiautomatic rifles in Jonesboro killers' arsenal," <i>Associated Press</i>, April 3, 1998 "Post WWII Commercially Manufactured M1 Carbines," <i>Universal Firearms</i>, http://www.m1carbinesinc.com/carbine_universal.html, accessed September 26, 2018 "77-Series Ruger 77/44," Ruger, https://ruger.com/products/77Series7744/models.html, accessed October 24, 2018 "Model 742," Remington, https://www.remington.com/sites/default/files/Model742.pdf, accessed October 24, 2018.</p> <p>au "Unfinished business," <i>Dateline NBC</i>, December 21, 2006.</p> <p>av "Explosive hoarded by killed of 4," <i>Chicago Tribune</i>, August 21, 1997</p> <p>aw "High-Capacity Ammunition Magazines are the Common Thread Running Through Most Mass Shootings in the United States," <i>Violence Policy Center</i>, accessed September 9, 2018.</p> <p>ax "An Airman's Revenge: 5 Minutes of Terror," <i>The New York Times</i>, June 22, 1994.</p> <p>ay "Soldier from Pasco held in N.C. killings," <i>St. Petersburg Times</i>, August 8, 1993 "What You Should Know About .22 Rimfire," <i>NRA</i>, August 16, 2017.</p> <p>az "San Francisco massacre prompts families' suits," <i>The Las Vegas Review-Journal</i>, May 19, 1994 "Death Over the Counter," <i>The Washington Post</i>, July 27, 1993 "TEC-DC9 Manual," Intratec Firearms,</p> <p>http://pdf.textfiles.com/manuals/FIREARMS/intratec_tec_dc9.pdf, accessed October 22, 2018.</p> <p>ba "Morro Bay changed forever by killings," <i>The Fresno Bee</i>, November 10, 1992</p> <p>bb "Gunman may have blamed teacher who flunked him," <i>Oakland Chronicle</i>, May 3, 1992 "What You Should Know About .22 Rimfire," <i>NRA</i>, August 16, 2017.</p> <p>bc "3 Killed, 8 Injured in Shooting Rampage at Post Office Crime," <i>Los Angeles Times</i>, November 15, 1991 "A Primer About Rimfire Vs. Centerfire Ammunition," <i>NRA</i>, November 21, 2017 Ruger Homepage, https://ruger.com/, accessed October 24, 2018.</p> <p>br "Four Killed in Post Office, Home Ex-Postal Employee In Custody," <i>AP News</i>, October 10, 1991.</p> <p>bd "Post WWII Commercially Manufactured M1 Carbines," <i>Universal Firearms</i>, http://www.m1carbinesinc.com/carbine_universal.html, accessed September 26, 2018.</p> <p>be "Firearms Tutorial: Terminology," https://library.med.utah.edu/WebPath/TUTORIAL/GUNS/GUNTERM.html, accessed October 24, 2018.</p> <p>bf "Sales Of Exotic Weapons Are Mostly Cash And Carry," <i>Orlando Sentinel</i>, May 18, 1987 "Instruction Manuals & Product History," Ruger, https://ruger.com/service/productHistory.html, accessed October 23, 2018 and Ruger Mini-14 manuals,</p> <p>bg https://ruger-docs.s3.amazonaws.com/manuals/mini14-180.pdf, https://ruger-docs.s3.amazonaws.com/manuals/mini14-181-186.pdf https://ruger-docs.s3.amazonaws.com/manuals/mini14-580.pdf, accessed October 23, 2018.</p> <p>"Authorities Piece Together Tragedy Gunman at Edmond Post Office Knew Where to Shoot People," <i>The Oklahoman</i>, August 22, 1986.</p> <p>bh "6 Die in Dallas Club as Enraged Man Fires Wildly," <i>New York Times</i>, June 30, 1984.</p> <p>bi "Multiple charges filed in murder, kidnapping spree," <i>UPI Archives</i>, October 12, 1983.</p> <p>bj "Gunman kills four and wounds a fifth at west side hotel," <i>The New York Times</i>, February 4, 1983.</p>							

EXHIBIT 48

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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14 **STEVEN RUPP; STEVEN**
15 **DEMBER; CHERYL JOHNSON;**
16 **MICHAEL JONES;**
17 **CHRISTOPHER SEIFERT;**
18 **ALFONSO VALENCIA; TROY**
WILLIS; and CALIFORNIA RIFLE
& PISTOL ASSOCIATION,
INCORPORATED,

19 Plaintiffs,

20 v.

21 **ROB BONTA, in his official capacity**
22 **as Attorney General of the State of**
23 **California; and DOES 1-10,**

24 Defendants.

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL SUR-
REBUTTAL EXPERT REPORT
AND DECLARATION OF LUCY P.
ALLEN**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

25
26 ¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the
27 Attorney General of the State of California. Pursuant to Federal Rule of Civil
28 Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as
the defendant in this case.

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A.	The Kleck Rebuttal Report’s claims that the list of mass shootings in the Allen Report is “trivially tiny,” “arbitrary,” and “unrepresentative” are misleading and incorrect	4
B.	The Kleck Rebuttal Report, while criticizing the list of mass shootings in my analysis, agrees with my finding that both injuries and deaths are greater in mass shootings in which LCMs or assault weapons are involved	8
C.	The Kleck Rebuttal Report’s estimate that only 14% of mass shootings involve LCMs is based primarily on incidents in the home and/or ones with unknown magazine type; restricting the analysis to public mass shootings validates the findings in the Allen Report	9
D.	The Kleck Rebuttal Report’s claim that my analysis of DGUs is not reliable is unfounded and ignores my systematic and scientific analysis of DGUs from Factiva news stories that yields similar results to my analysis of the NRA database	15
E.	The Kleck Rebuttal Report’s claim that there are 2 million DGUs a year is based on his own survey and study that have been heavily criticized in the past and overstate the numbers	16

1 **SUPPLEMENTAL SUR-REBUTTAL EXPERT REPORT AND**
2 **DECLARATION OF LUCY P. ALLEN**

3 I, Lucy P. Allen, declare:

4 1. I previously submitted a supplemental expert report and declaration in
5 this case dated January 6, 2023 (the “Allen Report”).²

6
7 **I. SCOPE OF ASSIGNMENT**

8 2. I have been asked by the Office of the Attorney General of California
9 to review and comment on portions of the Expert Witness Rebuttal Report of Gary
10 Kleck, dated February 3, 2023 that relate to the Allen Report.

11 3. This sur-rebuttal Report is based on my own personal knowledge and
12 experience, and, if I am called as a witness, I could and would testify competently to
13 the truth of the matters discussed in it.

14 **II. QUALIFICATIONS AND REMUNERATION**

15 4. My qualifications and remuneration were set forth in the Allen Report.

16
17 **III. MATERIALS CONSIDERED**

18 5. In preparing this report, I considered the materials previously
19 considered in the Allen Report. In addition, I considered the following materials:

- 20 a) Expert Witness Rebuttal Report of Gary Kleck, dated February 3, 2023
21 (the “Kleck Rebuttal Report”), including materials cited;
22 b) Declaration and Deposition of Gary Kleck in *Oregon Firearms*
23 *Federation, Inc., et al., v. Brown, et al.*, including materials cited;³

24
25 ² I also submitted an expert report in this case on October 25, 2018.

26 ³ The Kleck Declaration in the Oregon case was responding to my
27 Supplemental Declaration, dated November 10, 2022, in the *Virginia Duncan et al.*
28 *v. California Attorney General* case, where I performed similar analyses as in the
Allen Report in this case.

- c) Information on mass shootings from the Gun Violence Archive and the Violence Policy Center;
- d) News stories from Factiva and Google; and
- e) Academic articles on mass shootings and crime.

IV. RESPONSES TO THE KLECK REBUTTAL REPORT

6. Below are responses to comments and criticisms raised in the Kleck Rebuttal Report that relate to material discussed in the Allen Report.⁴

A. The Kleck Rebuttal Report's claims that the list of mass shootings in the Allen Report is "trivially tiny," "arbitrary," and "unrepresentative" are misleading and incorrect

7. Dr. Kleck's claims that the list of mass shootings in the Allen Report is "trivially tiny," "arbitrary," and "unrepresentative" are misleading and incorrect.⁵ The list of mass shootings in the Allen Report is based on the specific and commonly used definition of a mass shooting that is outlined in the Allen Report, and Dr. Kleck fails to identify any incidents within that definition that are missing.

8. Dr. Kleck criticizes the focus of the Allen Report because he claims that the number and impact of public mass shootings in the Allen Report is "trivially tiny" and that the "legislative intent" behind California's weapons bans is unrelated to these public mass shootings.⁶ First, contrary to Dr. Kleck's assertion, it is my understanding that California passed its first assault weapon ban, the Roberti-Roos Assault Weapons Control Act of 1989, in response to a public mass shooting – the public mass shooting in Stockton, CA.⁷ Second, Dr. Kleck's claim that public

⁴ Kleck Rebuttal Report, ¶¶7-46.

⁵ Kleck Rebuttal Report, ¶¶7,11 and Deposition of Gary Kleck in *Oregon Firearms Federation, Inc., et al., v. Brown, et al.*, taken on January 25, 2023, 20:22-21:3.

⁶ Kleck Rebuttal Report, ¶7.

⁷ See, for example, Carter, Greg L., *Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law* (ABC-CLIO, Santa Barbara, CA, 2nd ed. 2012), p. xli.

1 mass shootings are “trivially tiny” is based on his claim that “less than 1% of all
2 U.S. murder victims are killed in *any* kind of mass shooting,” and that public mass
3 shootings are “even tinier.”⁸ Dr. Kleck’s implication that the only impact of mass
4 shootings is based on the number of victims killed is misguided. To claim, for
5 example, that the only impact in the Newtown, CT mass shooting was on the 27
6 children and adults killed ignores the greater impact that mass shootings have had
7 on American society.⁹ For example, according to the Department of Education,
8 98% of public schools in the U.S. now have drills and procedures regarding active
9 shooters.¹⁰ Moreover, the very source cited by Dr. Kleck to support his claim that
10 the list of mass shootings in the Allen Report is “trivially tiny” also states that
11 “[m]ass shootings are arguably one of the worst manifestations of gun violence”
12 and that “the national dialogue on gun violence has been focused on mass public
13 shootings.”¹¹

14 9. Contrary to Dr. Kleck’s claims, the list of mass shootings in the Allen
15 Report is not “arbitrary” and “unrepresentative.”¹² The list of mass shootings in the
16 Allen Report was compiled using the specific definition of a mass shooting as
17 outlined in the Allen Report: an incident in which four or more people are killed in
18 a public place, excluding incidents involving other criminal activity such as a
19

20 ⁸ Kleck Rebuttal Report, ¶8.

21 ⁹ See mass shooting #66 in Exhibit B of the Allen Report.

22 ¹⁰ “Safety and Security Practices at Public Schools,” *National Center for*
23 *Education Statistics of the U.S. Department of Education*, 2022.

24 ¹¹ Krouse, William J. and Daniel J. Richardson, “Mass Murder with
25 Firearms: Incidents and Victims, 1999-2013,” *Congressional Research Service*,
July 30, 2015, pp. 2 and “Summary”.

26 ¹² Kleck Rebuttal Report, ¶¶7,11, Declaration of Gary Kleck in *Oregon*
27 *Firearms Federation, Inc., et al., v. Brown, et al.*, dated January 5, 2023, ¶¶11-14
28 and Deposition of Gary Kleck in *Oregon Firearms Federation, Inc., et al., v.*
Brown, et al., taken on January 25, 2023, 20:22-21:3.

1 robbery. Different researchers and aggregators have defined mass shootings
2 differently, but the definition outlined in my analysis is the definition employed by
3 four different, frequently cited sources: the Washington Post, the Citizens Crime
4 Commission, the Violence Project, and Mother Jones. These four databases largely
5 overlap, showing that the definition used in the Allen Report is a standard and
6 commonly used definition for mass shootings and is consistent with that used by a
7 number of other sources. Dr. Kleck fails to identify any mass shooting consistent
8 with my definition that is missing from the list of mass shootings in the Allen
9 Report.¹³

10 10. Moreover, the very source that Dr. Kleck claims proves the list of
11 mass shootings in the Allen Report is incomplete in fact shows the opposite. Dr.
12 Kleck claims that the “most comprehensive list of *all* mass shootings” can be found
13 in the Gun Violence Archive (“GVA”).¹⁴ The Kleck Rebuttal Report provides
14 counts of mass shootings that included “4+ dead in a single incident” from GVA.¹⁵
15 However, if we repeat Dr. Kleck’s system of obtaining mass shootings from GVA
16 and exclude those that do not meet my definition, *e.g.*, those occurring in the home
17 (approximately two thirds) and those related to other criminal activity
18 (approximately 5%), we get essentially the same number of mass shootings as in
19 my analysis for the years 2014-2021.¹⁶ In fact, using GVA for the years 2014-2021,
20 I not only get essentially the same *number* of mass shootings, I get essentially all
21
22

23 ¹³ Kleck Rebuttal Report, ¶¶7, 17-18 and Deposition of Gary Kleck in
24 *Oregon Firearms Federation, Inc., et al., v. Brown, et al.*, taken on January 25,
25 2023, 18:7-18.

26 ¹⁴ Kleck Rebuttal Report, ¶17.

27 ¹⁵ Kleck Rebuttal Report, ¶17.

28 ¹⁶ The approximate 5% includes incidents with insufficient detail to
determine locale.

1 the same *incidents* that are in my analysis. Thus, Dr. Kleck’s own compilation of
2 mass shootings, rather than contradicting my analysis, actually validates it.

3 11. The Kleck Rebuttal Report implies that mass shootings are commonly
4 defined as having four or more victims killed and claims that the definition in my
5 analysis, which excludes incidents in the home or related to other crimes, is
6 arbitrary.¹⁷ However, he provides no support for this claim, and the very sources he
7 relies upon define mass shootings differently than Dr. Kleck’s asserted common
8 definition. The Kleck Rebuttal Report relies on two sources of incidents for his
9 analysis of mass shootings: GVA and the Violence Policy Center (“VPC”). Both of
10 these sources define a mass shooting differently than what Dr. Kleck implies is the
11 common definition. GVA uses the definition “four or more people are shot or killed
12 in a single incident, not including the shooter” and VPC uses “*three* or more
13 fatalities.”¹⁸ Moreover, the allegedly common definition that Dr. Kleck applies in
14 his current Kleck Rebuttal Report is inconsistent with his own definition of a mass
15 shooting. In his own academic work, which he also cites in the Kleck Rebuttal
16 Report,¹⁹ Dr. Kleck has defined a mass shooting as “more than *six* people were
17 *shot, either fatally or nonfatally*, in a single incident.”²⁰

18
19
20 ¹⁷ Kleck Rebuttal Report, ¶¶7, 11, 17-18 and Declaration of Gary Kleck
21 in *Oregon Firearms Federation, Inc., et al., v. Brown, et al.*, dated January 5, 2023,
22 ¶10 (mass shootings are “commonly defined as incidents in which 4 or more
victims are killed”).

23 ¹⁸ “General Methodology,” *Gun Violence Archive Website*, accessed on
24 February 3, 2023, and “Mass Shootings in the United States Involving Large
25 Capacity Ammunition Magazines,” *Violence Policy Center*, September 16, 2022,
emphasis added.

26 ¹⁹ Kleck Rebuttal Report, ¶¶15-16.

27 ²⁰ See, for example, Kleck, Gary, “Large-Capacity Magazines and the
28 Casualty Counts in Mass Shootings: The Plausibility of Linkages,” 17 *Justice
Research and Policy* 28 (2016), emphasis added.

B. The Kleck Rebuttal Report, while criticizing the list of mass shootings in my analysis, agrees with my finding that both injuries and deaths are greater in mass shootings in which LCMs or assault weapons are involved

12. Although the Kleck Rebuttal Report criticizes the list of mass shootings in the Allen Report for being “arbitrary” and “unrepresentative,” Dr. Kleck agrees with the conclusions of my analysis. In particular, he agrees with my finding that the number of both casualties and deaths are greater in mass shootings in which large capacity magazines (“LCMs”) or assault weapons (“AWs”) are involved. In particular, the Kleck Rebuttal Report states: “Allen accurately notes that casualty counts tend to be higher in incidents in which AWs or LCMs are used by the offenders.”²¹

13. Moreover, Dr. Kleck’s own study of mass shootings (which was based on his own definition of a mass shooting of more than 6 people shot in a single incident) also shows that casualties are greater in mass shootings in which LCMs are involved. In particular, an analysis of the mass shooting incidents in his 2016 article yields similar results (21 fatalities or injuries in mass shootings involving LCMs versus 8 for those without).²²

14. Thus, based on either definition of a mass shooting, there is a consistent finding that there are on average more deaths and injuries if a mass shooting involves an LCM or an assault weapon.²³

²¹ Kleck Rebuttal Report, ¶40.

²² The article covered 88 mass shooting incidents between 1994 and 2013. See Kleck, Gary, “Large-Capacity Magazines and the Casualty Counts in Mass Shootings: The Plausibility of Linkages,” 17 *Justice Research and Policy* 28 (2016).

²³ In addition to the results in the Allen Report (as well as prior analyses I have done) and Dr. Kleck’s 2016 article, the finding that there are on average more deaths and injuries in mass shootings involving LCMs is also in Klarevas et al., “The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings 1990-2017,” *American Journal of Public Health* (2019), and Koper et al.,

(continued...)

1 15. Furthermore, although Dr. Kleck claims that there is no causal relation
2 between the use of LCMs or AWs and the number of casualties inflicted, Dr.
3 Kleck's support for this claim is speculative, and it ignores that controlled scientific
4 experiments cannot be practically or ethically done to assess the presence of a
5 causal relation.²⁴ Moreover, Dr. Kleck himself admits that mass shooters believe
6 there is a causal relation. According to Dr. Kleck:

7 **Offenders more intent on hurting many people** would be more
8 likely to do so (lethal intentions cause lethal outcomes) but **are also**
9 **more likely to use [AWs or LCMs] they believe – correctly or not –**
10 **will help them achieve this goal** (lethal intentions cause use of
11 **purportedly more lethal weaponry**).²⁵

12 16. Thus, Dr. Kleck's own logic appears to argue that there is a causal
13 relation between the use of LCMs or AWs and the number of casualties inflicted.

14 **C. The Kleck Rebuttal Report's estimate that only 14% of mass**
15 **shootings involve LCMs is based primarily on incidents in the**
16 **home and/or ones with unknown magazine type; restricting the**
17 **analysis to public mass shootings validates the findings in the**
18 **Allen Report**

19 17. In the Allen Report I find that 63% of mass shootings with known
20 magazine capacity involved LCMs and, assuming that *none* of the mass shootings
21 with unknown magazine involved LCMs, 41% of mass shootings involved LCMs.
22 Dr. Kleck claims that my estimate of the percent of mass shootings involving
23 LCMs is too high and that only 14% of mass shootings involve LCMs.²⁶

24 18. Dr. Kleck's 14% estimate is based on taking a simple ratio of incidents
25 in VPC, a source that maintains a report listing mass shootings for which it is

26

27 "Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: an
28 Updated Examination of Local and National Sources," *Journal of Urban Health*
(2018).

²⁴ Kleck Rebuttal Report, ¶¶40-46.

²⁵ Kleck Rebuttal Report, ¶40, emphasis added.

²⁶ Kleck Rebuttal Report, ¶18.

1 known that an LCM was involved (“Mass Shootings in the United States Involving
2 Large Capacity Ammunition Magazines”), to incidents in GVA, a source that
3 includes mass shootings regardless of the magazine capacity.²⁷ Dr. Kleck first
4 isolates the incidents in each source for which at least 4 people were killed, finding
5 29 in VPC and 201 in GVA for the years 2014 to 2022.²⁸ Dr. Kleck divides the 29
6 incidents with LCMs in VPC by the 201 incidents in GVA and concludes that only
7 14% of mass shootings involve LCMs.²⁹

8 19. Dr. Kleck’s analysis yields very different results from mine for
9 primarily two related reasons. First, his analysis erroneously assumes that all
10 incidents with an LCM have been identified and included in the VPC list. Second,
11 the majority of incidents in his analysis occurred in the home, while the focus of my
12 analysis is on public mass shootings.

13 **1. The Kleck Rebuttal Report does not address the fact that**
14 **magazine capacity is unknown for a substantial portion of**
mass shootings

15 20. The Kleck Rebuttal Report relies on a report published by the VPC
16 which includes a list of mass shootings that involved LCMs to draw the conclusion
17 that “mass shooters *rarely* use LCMs.”³⁰ The first page of the VPC’s report
18 explains that its list of mass shootings involving LCMs “*is likely a significant*
19 *undercount* of actual incidents as there is no consistent collection or reporting on
20 this data” and “[e]ven in many high-profile shootings, information on magazine
21
22

23 ²⁷ Kleck Rebuttal Report, ¶¶17-18.

24 ²⁸ Kleck Rebuttal Report, ¶¶17-18.

25 ²⁹ Kleck Rebuttal Report, ¶¶17-18.

26 ³⁰ “Mass Shootings in the United States Involving Large Capacity
27 Ammunition Magazines,” The Violence Policy Center,
28 https://vpc.org/fact_sht/VPCshootinglist.pdf, accessed February 1, 2023, and Kleck
Rebuttal Report, ¶¶17-18.

1 capacity is neither released nor reported.”³¹ Dr. Kleck does not address the fact that
2 the source he relies upon states that the magazine capacity is unknown for a
3 substantial portion of mass shootings. Instead, he assumes that *all* incidents not
4 included in VPC did not involve LCMs.

5 21. Moreover Dr. Kleck has testified that there are a number of incidents
6 involving LCMs that are not included in the VPC list.³² For example, he testified
7 that the mass shooting in Rancho Tehama, California on November 14, 2017 (#39
8 in Exhibit B of the Allen Report and incident #987611 in the GVA database) is not
9 included in the VPC list but according to news reports did involve an LCM.³³
10 There are other mass shootings involving LCMs that are not included in the VPC
11 list. For example, the mass shooting in Indianapolis, Indiana on April 15, 2021 (#10
12 in Exhibit B of the Allen Report and incident #1978635 in the GVA database) is
13 also not included in the VPC list but did involve an LCM.³⁴ Similarly, the mass
14 shooting in Melrose Park, Illinois on February 5, 2001 (#118 in Exhibit B of the

15
16 ³¹ “Mass Shootings in the United States Involving Large Capacity
17 Ammunition Magazines,” The Violence Policy Center,
18 https://vpc.org/fact_sht/VPCshootinglist.pdf, accessed February 1, 2023, emphasis
added.

19 ³² Deposition of Gary Kleck in *Oregon Firearms Federation, Inc., et al., v.*
20 *Brown, et al.*, taken on January 25, 2023, 46:13-49:12.

21 ³³ “Terror in Northern California town as gunman goes on rampage, kills 5,”
22 *Los Angeles Times*, November 14, 2017, which states that “staffers described the
23 scene as ‘horrific,’ with multiple rounds fired and multiple high-capacity magazines
found at the school.” *See also*, Deposition of Gary Kleck in *Oregon Firearms*
Federation, Inc., et al., v. Brown, et al., taken on January 25, 2023, 46:13-47:10.

24 ³⁴ “Prosecutor: FedEx shooter didn’t have ‘red flag’ hearing,” *WishTV*, April
25 19, 2021, and “HM DEFENSE HM15F-MB-556 DEFENDER M5 223
26 REM,5.56X45MM NATO 16" 30+1 BLACK HARD COAT ANODIZED BLACK
MIL-SPEC HM STOCK,” *Carter’s Country*,
27 [https://www.carterscountry.com/product/hm-defense-defender-m5-223-rem5.56-](https://www.carterscountry.com/product/hm-defense-defender-m5-223-rem5.56-nato-16-301-black-hard-coat-anodized-mil-spec-hm-stock)
28 [nato-16-301-black-hard-coat-anodized-mil-spec-hm-stock](https://www.carterscountry.com/product/hm-defense-defender-m5-223-rem5.56-nato-16-301-black-hard-coat-anodized-mil-spec-hm-stock), accessed February 3,
2023.

1 Allen Report) is another example of an incident involving an LCM but excluded
2 from the VPC list.³⁵

3 22. Thus, not only has VPC not identified every mass shooting where
4 public information indicates that there was an LCM involved but critically, as VPC
5 itself explains, there is often not enough information to determine the magazine
6 capacity and there are likely many mass shootings with LCMs omitted from the
7 VPC list. As detailed in Exhibit B of the Allen Report, after a search of public
8 information and news stories, we found that magazine capacity was unknown for
9 36% of mass shootings (64 of the 179 mass shootings).

10 **2. The Kleck Rebuttal Report's calculation of LCM use is**
11 **heavily affected (and reduced) by its inclusion of incidents in**
12 **the home**

13 23. Dr. Kleck claims that my estimate of the percent of mass shootings
14 involving LCMs is too high and that only 14% of mass shootings involved an
15 LCM.³⁶ However, his data do not demonstrate that my estimate is too high – the
16 primary reason why Dr. Kleck's calculation yields a lower proportion is that it
17 includes incidents that occurred in the home, whereas the focus of my analysis is on
18 public mass shootings.

19 24. Contrary to Dr. Kleck's claim that he has shown that my estimate of
20 the percent of mass shootings involving LCMs is too high, an analysis of Dr.
21 Kleck's set of mass shootings validates the findings in the Allen Report. As
22 discussed above, I find that 63% of mass shootings with known magazine capacity
23 involved LCMs and, assuming that *none* of the mass shootings with unknown
24 magazine involved LCMs, 41% of mass shootings involved LCMs.

25 ³⁵ "Ex-Employee Kills 4, Self in Rampage," *ABC News*, February 6, 2001,
26 and "Kalashnikov AK-47,"
27 *WeaponSystems.net*, <https://weaponsystems.net/system/605-Kalashnikov%20AK-47>, accessed February 5, 2023.

28 ³⁶ Kleck Rebuttal Report, ¶18.

1 25. Using Dr. Kleck's method of taking the ratio of VPC to GVA incidents
2 but limiting Dr. Kleck's incidents to only public mass shootings for the years 2014-
3 2021 results in an estimate that approximately 40% of public mass shootings
4 involved known LCMs and is therefore entirely consistent with and validates the
5 findings in the Allen Report.

6 26. Instead, focusing on mass shootings in the home, which account for
7 almost two thirds of Dr. Kleck's mass shootings from GVA, yields very different
8 results.³⁷ In particular, limiting Dr. Kleck's method to only mass shootings in the
9 home results in a finding that less than 2% of mass shootings in GVA are listed in
10 VPC and thus, according to Dr. Kleck, less than 2% involved LCMs. Thus,
11 compared to public mass shootings, the evidence indicates that mass shootings in
12 the home are less likely to involve known LCMs, suggesting that LCMs are less
13 frequently used in mass shootings in the home and/or there is less information
14 about magazine capacity for mass shootings in the home.

15 27. I performed an analysis comparing the news coverage for public mass
16 shootings versus mass shootings in the home. The results suggest that there is less
17 information about mass shootings in the home and thus it would presumably be
18 more likely that magazine capacity is unknown for these incidents. I found that
19 public mass shootings are covered by news stories substantially more (4 to 36 times
20 more) than mass shootings in the home. In particular, we performed a news search
21 using Factiva for the 3-day and 10-day periods after each incident in the GVA set of
22 mass shootings using Dr. Kleck's method for the years 2017, 2019 and 2021.³⁸ In

23 ³⁷ Approximately 5% of Dr. Kleck's mass shootings from GVA related to
24 other criminal activity and/or had insufficient detail on shooting locale. This
25 analysis covers the years 2014-2021.

26 ³⁸ The specific search string used in Factiva was: (gun* or shoot* or fire* or
27 arm* or shot*) AND (kill* or "dead" or "death") AND ("[City]") AND ("[Street]")
28 NOT (covid* or "coronavirus" or "virus"). The region was set to United States and
the state in which the shooting took place, and the search excluded duplicate stories
(continued...)

1 the 3-day period after an incident, the mean and median number of news stories for
2 public mass shootings was 193 and 21, while for mass shootings in the home it was
3 6 and 5. In the 10-day period after an incident, the mean and median number of
4 news stories for public mass shootings was 296 and 25, while for mass shootings in
5 the home it was 8 and 6. The table below summarizes these results. As can be seen
6 in the table below, the number of news stories is far greater for public mass
7 shooting than incidents in the home, suggesting that magazine capacity would be
8 more unknown for incidents in the home than the 36% percent of unknowns I find
9 for public mass shootings.

**Number of News Stories
Covering Mass Shootings**

	3-Day Window		10-Day Window	
	Mean	Median	Mean	Median
Public Mass Shootings	193	21	296	25
Mass Shootings in the Home	6	5	8	6

Notes and Sources:

Data from Factiva and the Gun Violence Archive. The search covers the years 2017, 2019, and 2021 and uses the search string (gun* or shoot* or fire* or arm* or shot*) AND (kill* or "dead" or "death") AND ("[City]") AND ("[Street]") NOT (covid* or "coronavirus" or "virus"). The region was set to the United States and the state in which the shooting took place, and the search excludes duplicate stories classified as "similar" as well as "republished news," and "recurring pricing and market data."

28. Thus, using Dr. Kleck's two sources, GVA and VPC, I find evidence that unknown magazine capacity can be a substantial issue, particularly for mass shootings in the home, and that even assuming all mass shootings where the

classified as "similar" as well as "republished news," "recurring pricing and market data," and "obituaries, sports, calendars..." The "City" and "Street" for each incident were obtained from GVA.

1 magazine capacity is unknown are not LCMs, approximately 40% of public mass
2 shootings involve LCMs.

3
4 **D. The Kleck Rebuttal Report's claim that my analysis of DGUs is**
5 **not reliable is unfounded and ignores my systematic and**
6 **scientific analysis of DGUs from Factiva news stories that yields**
7 **similar results to my analysis of the NRA database**

8 29. Dr. Kleck claims that the analysis of defensive gun uses ("DGUs")
9 from the NRA Armed Citizen database in the Allen Report is biased and unreliable
10 because, due to the NRA's incentives, it is not based on a representative sample.³⁹
11 However, Dr. Kleck has no support for his argument that the NRA has the incentive
12 to exclude DGU incidents in which the defender fired more than ten shots.⁴⁰ The
13 NRA would presumably better serve its political ends by showing that individuals
14 regularly require more than ten rounds to defend themselves. Note that the NRA,
15 which maintains the Armed Citizen database, is affiliated to Plaintiff California
16 Rifle & Pistol Association, Inc.⁴¹

17 30. Dr. Kleck claims that the systematic and scientific analysis of DGUs
18 using Factiva news stories in the Allen Report is biased because news stories are
19 less likely to cover incidents where many rounds are fired. Dr. Kleck asserts that
20 the "Factiva-discovered DGUs would tend to omit cases with many rounds fired,"
21 particularly when defenders "fired over 10 rounds in self-defense."⁴² However, this
22 claim is implausible, completely unsupported, and contrary to the empirical
23 evidence. In particular, as detailed in the Allen Report, the data shows that, on
24 average, the more shots fired in a DGU incident, the greater the number of stories

25 ³⁹ Kleck Rebuttal Report, ¶¶26-28.

26 ⁴⁰ Kleck Rebuttal Report, ¶¶26-28.

27 ⁴¹ "Membership," *California Rifle & Pistol Association website*,
<https://crpa.org/membership/>.

28 ⁴² Kleck Rebuttal Report, ¶30.

1 covering that incident.⁴³ Thus, not only does Dr. Kleck offer no support for his
2 implausible claim but the empirical evidence directly contradicts it.

3 **E. The Kleck Rebuttal Report's claim that there are 2 million**
4 **DGUs a year is based on his own survey and study that have**
5 **been heavily criticized in the past and overstate the numbers**

6 31. The Kleck Rebuttal Report claims that "national surveys" have
7 "consistently indicated that 0.5-3.5 million DGUs occur per year in the U.S., so it
8 would be reasonable to assume an annual average of around 2 million DGUs."⁴⁴
9 However, this estimate is unreliable for a number of reasons, including that the
10 surveys Dr. Kleck references do not actually estimate the number of DGUs per year
11 in the United States, have been criticized by Dr. Kleck himself, and do not account
12 for the reduction in crime from the time when the surveys were conducted to the
13 present.

14 32. Many of the surveys referenced by Dr. Kleck do not *actually* estimate
15 the number of annual DGUs. Instead, Dr. Kleck applies 12 different adjustments,
16 which themselves are mostly derived from a study he conducted almost 30 years
17 ago, to calculate the 2 million estimate reported in the Kleck Rebuttal Report.⁴⁵ Dr.
18 Kleck himself admitted that several of the surveys he referenced had "serious
19 problems" and that they are not "very thorough or satisfactory for estimating DGU
20 frequency."⁴⁶ Further, 19 of the 21 surveys he cites were conducted between 1978
21

22 ⁴³ For more information, see Allen Report, ¶19.

23 ⁴⁴ Kleck Rebuttal Report, ¶31, citing his own paper Gary Kleck, "What Do
24 CDC's Surveys Say About the Prevalence of Defensive Gun Use?," *American
Journal of Criminal Justice*, 2020.

25 ⁴⁵ Appendix of Gary Kleck, "What Do CDC's Surveys Say About the
26 Prevalence of Defensive Gun Use?" *American Journal of Criminal Justice*, 2020.

27 ⁴⁶ Kleck, Gary and Marc Gertz, "Armed Resistance to Crime: The
28 Prevalence and Nature of Self-Defense with a Gun," *Journal of Criminal Law and
Criminology*, 1995, pp. 157-159.

1 and 2000.⁴⁷ In a 2015 interview, Dr. Kleck claimed that DGU estimates from these
2 surveys would need to be cut by half to account for the reduction in crime from the
3 time when the surveys were conducted to the present.⁴⁸

4 33. Moreover, unlike the majority of the 21 surveys mentioned above, one
5 of the sources cited by Dr. Kleck, the National Crime Victimization Survey
6 (“NCVS”), repeatedly calculates the number of DGUs per year in the U.S., and
7 consistently finds substantially lower estimates, less than one tenth the rate that Dr.
8 Kleck estimates. For example, a brief analyzing NCVS data by the Bureau of
9 Justice Statistics (“BJS”), which the Kleck Rebuttal Report relies on,⁴⁹ estimates
10 82,500 DGUs per year (62,200 DGUs related to violent crimes and 20,300 DGUs
11 related to property crimes), less than one twentieth the rate that Dr. Kleck
12 estimates.⁵⁰ The NCVS, which is conducted annually by the BJS, is “the nation’s

13 ⁴⁷ Kleck, Gary “What Do CDC’s Surveys Say About the Prevalence of
14 Defensive Gun Use?” *American Journal of Criminal Justice*, 2020, pp. 12-14.

15 ⁴⁸ Dr. Kleck stated in an interview that “the violent crime rate is about half
16 now of what it was circa 1993, when we did that survey on defensive gun uses, so,
17 best guess, the number of defensive gun uses would be about half. So, if it was 2.5
18 million then, it would be 1.2 million or so now.” See “Criminologist Gary Kleck on
19 Guns, Crime, and Their Study, *Ari Armstrong Website*, November 7, 2017
(Available at: <http://ariarmstrong.com/2015/11/criminologist-gary-kleck-on-guns-crime-and-their-study/>).


20 ⁴⁹ Kleck Rebuttal Report, ¶¶9, 15, 58 and 60, citing Kleck, Gary, “Targeting
21 Guns: Firearms and their Control,” NY: Aldine de Gruyter, 1997, p. 123. For
22 example, Dr. Kleck supports his claim in his Rebuttal Report that “LCMs are of
23 little or no significance in ordinary gun crimes with few victims and few shots
24 fired” by citing his own book *Targeting Guns: Firearms and their Control*, which
25 cites a BJS brief analyzing NCVS data. In particular, Dr. Kleck’s book finds that
26 “gun assaults usually involve [] no shots (the victim is shot at in only 17% of gun
27 assaults, and wounded in 3%,” by citing directly to the BJS’s analysis of NCVS
28 data. See “Guns and Crime,” *U.S. Bureau of Justice Statistics*, April 1994, p. 2.

⁵⁰ “Guns and Crime,” *U.S. Bureau of Justice Statistics*, April 1994, p. 2,
citing the NCVS. See, also, “Trends and Patterns in Firearm Violence, 1993–2018,”
Bureau of Justice Statistics, p. 12, citing the NCVS, which estimates 70,040 DGUs
(continued...)

1 primary source of information on criminal victimization”⁵¹ and frequently cited by
2 Dr. Kleck.⁵²

3
4 I hereby declare that the above statement is true to the best of my knowledge and
5 belief and that I understand it is made for use as evidence in court and is subject to
6 penalty for perjury.

7
8 Dated this 24th day of February, 2023.

9
10
11 
12 Lucy P. Allen

13
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22 _____
23 per year from 2014-2018.

24 ⁵¹ “National Crime Victimization Survey,” *U.S. Bureau of Justice*
Statistics, accessed February 23, 2023 at <https://bjs.ojp.gov/programs/ncvs>.

25 ⁵² See, for example, Kleck Rebuttal Report, ¶36, Kleck, Gary and Jongyeon
26 Tark, “Resisting Crime: The Effects of Victim Action on the Outcomes of Crimes.”
27 *Criminology* 42(10): 2004, and Kleck, Gary and Miriam A. DeLone, “Victim
28 Resistance and Offender Weapon Effects in Robbery,” *Journal of Quantitative*
Criminology 9(1): 1993.

EXHIBIT 49

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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 **STEVEN RUPP; STEVEN**
16 **DEMBER; CHERYL JOHNSON;**
17 **MICHAEL JONES;**
18 **CHRISTOPHER SEIFERT;**
19 **ALFONSO VALENCIA; TROY**
20 **WILLIS; and CALIFORNIA RIFLE**
21 **& PISTOL ASSOCIATION,**
22 **INCORPORATED,**

23 Plaintiffs,

24 v.

25 **ROB BONTA, in his official capacity**
26 **as Attorney General of the State of**
27 **California; and DOES 1-10,**

28 Defendants.

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL EXPERT
REPORT AND DECLARATION
OF DENNIS BARON**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the Attorney General of the State of California. Pursuant to Federal Rule of Civil Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as the defendant in this case.

**SUPPLEMENTAL EXPERT REPORT AND DECLARATION OF
DENNIS BARON**

I, Dennis Baron, declare:

1. I have been asked by the Office of the Attorney General for the State of California to prepare an expert report and declaration regarding Corpus Linguistics research. This supplemental expert report and declaration (“Report”) is based on my own personal knowledge and experience, and, if I am called as a witness, I could and would testify competently to the truth of the matters discussed in this Report.

2. I have evaluated the historical use of the terms *arms* and *accoutrements* and have concluded that there existed, from the Founding Era through the period following the ratification of the Fourteenth Amendment, a distinction between *arms* and *accoutrements*. In my opinion, optional firearm accessories that are not integral or necessary for the functioning of a weapon—including large-capacity magazines (henceforth, LCMs), along with other magazines, ammunition cases, cartridge cases or boxes, and other ammunition storage containers or devices—are not *arms*, but are part of the category known as *accoutrements*, as those terms were used in the 18th and 19th centuries. I have also evaluated the lexical evidence for “repeater” *air guns*, *wind guns*, and *magazine wind-guns*, also called *magazine guns*, in the Founding era. Air guns used compressed air instead of gunpowder to propel a ball. The lexical evidence leads me to conclude that, although several 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. There are very few mentions of them in newspapers, and no mentions in the other historical databases that I consulted. Some of these guns were one-offs and others did not seem to have been manufactured in any large quantity; and they were typically treated as curiosities, with the inventor (often a clockmaker) or owner exhibiting them for a fee. The

1 mechanisms of repeater air guns were complex—as noted, they were often made by
2 clockmakers rather than armorers—and they were difficult to maintain in normal
3 circumstances, let alone in times of conflict. There is no lexical indication that
4 these repeater air guns were ever adopted as military weapons in England or
5 American in the eighteenth and early nineteenth centuries. And there is no
6 indication that they were ever used for personal self-defense.

7 **BACKGROUND AND QUALIFICATIONS**

8 3. I am a resident of Champaign, Illinois, and I am currently Professor
9 Emeritus and Research Professor at the University of Illinois, where I have served
10 as a member of both the Department of English and the Department of Linguistics
11 since 1975. I served as Head of the Department of English for six years and before
12 that as Director of Rhetoric at the university for 11 years. I earned my Ph.D. in
13 English language and literature from the University of Michigan in 1971, with a
14 dissertation on historical aspects of the English language from Old English to
15 Present-Day English, and I continue to publish widely on matters of historical
16 language use, and on topics related to language and law. I am a life member of the
17 Linguistic Society of America, the American Dialect Society, and the Modern
18 Language Association, as well as a member of the National Council of Teachers of
19 English. I have held a Fulbright Fellowship (to France), a National Endowment for
20 the Humanities Fellowship, for work on a book on language and law, and, most
21 recently, a Guggenheim Fellowship, for work on my latest book on language and
22 law. I have also published books on language reform, on usage, and on gender in
23 language.

24 4. Most relevant for this report, I published two books on language and
25 law: *The English-Only Question: An Official Language for Americans?* (Yale Univ.
26 Press, 1990) and *You Can't Always Say What You Want: The Paradox of Free*
27 *Speech* (Cambridge Univ. Press, 2023). In addition, I served as lead author on what
28 came to be called “the Linguists Brief” in *District of Columbia v. Heller* (544 US

1 570 2008), a brief cited both by Justice Scalia in his opinion in the case, and by
2 Justice Stevens in his dissent. I was a co-author on another brief by professors of
3 linguistics and corpus linguistics, in *New York State Rifle and Pistol Ass’n. v. Bruen*
4 (No. 20-843, 2022), which Justice Breyer cited in his dissent. In that dissent,
5 Justice Breyer also quoted directly from my essay “Corpus evidence and the
6 meaning of ‘bear arms’” (*Hastings Constitutional Law Quarterly*, 46.3: 2019). I
7 have spoken about historical meaning and the Second Amendment at the Federalist
8 Society at the University of Chicago Law School, at the Neubauer Symposium on
9 Historical Semantics at the University of Chicago, at Brigham Young University
10 Law School, at Stanford University, and at the conference “*Heller* after Ten Years”
11 at UC Hastings College of the Law. I have also written opinion essays on historical
12 meaning and the Second Amendment for the *Washington Post* and the *Los Angeles*
13 *Times*. And I have submitted a declaration on behalf of the State of California in
14 *Duncan et al. v. Bonta* (Case No. 3:17-cv-01017-BEN-JLB), a case challenging
15 California’s restrictions on LCMs, and a declaration on behalf the State of Rhode
16 Island in *Ocean State Tactical, LLC, et al. v. State of Rhode Island* (Case No. 1:22-
17 cv-00246-JJM-PAS) (D. R.I.), which also concerns the constitutionality of LCM
18 restrictions. In the past twenty years I have been an expert consultant in fourteen
19 cases involving document interpretation.

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

25 6. This report is based on my professional knowledge and expertise, and
26 on my research using accepted scientific linguistic methodology in the field of
27 Corpus Linguistics, the analysis of large digitized corpora consisting of many
28 millions of words.

1 different accessories that officers and the rank and file soldiers were also required
2 to have.

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

6 **II. THEORY AND METHODOLOGY**

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

17 Lexicographers, who began compiling large analog databases of text in the late 19th
18 century, began to digitize their libraries of paper data and to add to that material,
19 assembling computerized databases of historical and contemporary text and, more
20 recently, of spoken language as well, in order to arrive at more precise definitions
21 of the multiple senses of words and phrases. As a graduate student at the
22 University of Michigan in 1970, I coded analog texts from the *Oxford English*
23 *Dictionary* files to help build the computerized database for the Dictionary of Early
24 Modern English, the period from 1500–1800 that is particularly relevant to the
25 language of the Founding Era. Today, major dictionaries like the *Oxford English*
26 *Dictionary* and the Merriam-Webster suite of dictionaries rely on public databases
27 of oral and written language, as well as their own proprietary databases, in order to
28 revise older definitions and to track the spread of new words and meanings. The

1 major dictionary makers of Europe use similar databases in their own work.

2 12. Over the past twenty years, Legal Corpus Linguistics (LCL) has
3 developed as a subset of Corpus Linguistics. LCL involves the analysis of digitized
4 corpora of current and historical English to establish meaning—often referred to as
5 Original Public Meaning (OPM)—in statutes and constitutional texts. The promise
6 of LCL attracted jurists as well as scholars with a specific interest in language and
7 law. In *Muscarello v. United States* (524 U.S. 125 1998), a case which held that “a
8 person who knowingly possesses and conveys firearms in a vehicle, including in its
9 glove compartment or truck, can be deemed to be within the scope of the statutory
10 phrase ‘carries a firearm,’” Justice Breyer searched two computerized newspaper
11 databases (Lexis/Nexis for the *New York Times* and Westlaw for “US News”) to
12 clarify the meaning of the words *carry*, *vehicle*, and *weapon*. In her dissent, Justice
13 Ginsburg expressed skepticism that either dictionary evidence, or Justice Breyer’s
14 innovative newspaper searches, were useful in determining what Congress intended
15 by the verb *carry* in the law in question. Her critique did not deter courts from
16 performing other computerized data searches to determine legal meaning. In 2012,
17 Judge Richard Posner, then Chief Judge of the Seventh Circuit, was perhaps the
18 first jurist to use a general internet search in order to determine a word’s meaning in
19 a statute. Not satisfied with the dictionary definition that the government relied on
20 in the case before him, Judge Posner ran a Google search to confirm that the word
21 *harbor* in the Immigration Act of 1917 does not mean ‘shelter,’ as the government
22 claimed, but rather ‘hide, conceal from view,’ as he felt it must mean in the context
23 of the statute (*United States v. Costello*, No. 11-2917 [7th Cir. 2012]). Subsequent
24 research by trained corpus linguists pointed out that a more-structured internet
25 search revealed that *harbor* can indeed mean ‘provide shelter’ as well as the
26 narrower sense, ‘hide someone from the authorities.’ But in the context of the
27 version of the Immigration Act current at the time of Costello’s conviction
28 (8 U.S.C. § 1324 (a)(1)(B)(ii); 18 U.S.C. § 3571(b)(3), *harbor* appears alongside

1 other terms involving secret, illegal activity, and so even though Gries and Slocum,
2 using more rigorous parameters, showed that Judge Posner’s Google search may
3 have been flawed (Stefan Th. Gries and Brian G. Slocum, “Ordinary Meaning and
4 Corpus Linguistics,” 2017 *BYU L. Rev.* 1417 (2018): 1417–71), his understanding
5 of the word *in context* seems clearly to be correct.

6 13. More principled, scientific database searches soon followed. In 2018,
7 Justice Thomas Lee of the Utah Supreme Court, a long-time champion of corpus
8 linguistics, together with the legal scholar Stephen Mouritsen, summarized the
9 latest research in corpus linguistics and LCL as a way to determine ordinary
10 meaning, and more specifically, OPM, with more clarity (Thomas Lee and Stephen
11 Mouritsen, “Judging Ordinary Meaning,” *Yale Law Journal* 127(2018): 788–879).
12 Jurists over the past few years have found that in several cases, LCL proves more
13 useful than the period dictionaries (for example, the dictionaries of Samuel Johnson
14 and Noah Webster) that courts have often relied on to determine historical meaning.
15 LCL often supplements the historical interpretations found in older dictionaries and
16 in the *Oxford English Dictionary*, as well, allowing a more precise interpretation of
17 historical text data.

18 14. In addition to the publication of several significant law review articles
19 by experts in the field of corpus linguistics, there have been several conferences on
20 Legal Corpus Linguistics in the past few years, and a number of continuing-
21 education seminars on LCL are now offered for judges and lawyers. As a result,
22 Corpus Linguistics has drawn increased attention from the courts, including recent
23 mentions in decisions in the Sixth, Seventh, and Ninth Circuits, as well as a
24 comment by Justice Alito in his concurrence in *Facebook v. Duguid* (19-511 2021),
25 where he suggested that LCL may one day provide a useful alternative to the
26 canons of interpretation. Over the past decade, LCL has become an important tool
27 in helping to determine original public meaning when such meaning is in doubt.

28 15. Several large databases have come online in the past few years that

1 facilitate LCL research. They have proved invaluable to me in compiling this
2 Report. Brigham Young University's Center for Law and Corpus Linguistics hosts
3 the Corpus of Founding Era American English (COFEA), with more than 126,000
4 texts, comprising close to 137 million words and covering the years 1760–1799.
5 BYU's Corpus of Early Modern English (COEME), with data from 1475–1800,
6 contains over 40,000 texts and 1.1 billion words. For the nineteenth century, the
7 Corpus of Historical American English (COHA), initially developed at BYU but
8 now independent of that institution, currently contains 475 million words of text
9 from 1820–2020. The size of these databases continues to grow as more works are
10 digitized, coded, and added to the corpora.

11 16. Critics of LCL have complained that databases like COFEA and
12 COEME contain only texts written by “elites,” whose language may differ from
13 that of “ordinary people” who do not write at all, or who for various reasons do not
14 write texts likely to be included in the available corpora. It is certainly the case that
15 many printed books and periodicals, along with documents like the Constitution, its
16 amendments, and state and federal statutes, tend to be written by educated
17 specialists and professional writers, and although ordinary people are expected to
18 understand the language of the Constitution, the Declaration of Independence, and
19 other founding documents, as well as the laws that govern the nation, such texts
20 typically require specialized knowledge. A reading-difficulty formula like the
21 commonly-used Flesch-Kincaid scale suggests that the Declaration of
22 Independence and the Constitution require a fifteenth-grade reading level, while
23 according to one comprehensive study, *Adult Literacy in America* (US Department
24 of Education, 1993), the average American today tends to have a seventh-grade
25 reading level.

26 17. In order to counter any “elite” bias that may be found in databases like
27 COFEA, COEME, and COHA, I rely as well on five digitized newspaper databases
28 covering the period 1750–1900, focusing for this report on the Founding Era and on

1 the period of Reconstruction after the passage of the Fourteenth Amendment.
2 Because of changes in print technology and the spread of literacy, Founding Era
3 newspapers differed from the newspapers of the post-Civil War era. Print
4 technology remained relatively static between the 1450s, when printing presses first
5 appeared in Europe, and the early 19th century, when the Industrial Revolution
6 drastically changed printing methods. The first printing press was adapted by
7 Gutenberg from the design of the traditional wine press, and printing was a slow
8 and labor-intensive process. As a result, newspapers in the founding era were
9 small, averaging four to eight pages. Publication was less frequent as well. Papers
10 tended to appear weekly or semi-weekly, rather than daily. Even so, newspapers in
11 the Founding Era and later, during Reconstruction, provided average Americans
12 with their principal access to all the critical events and documents of their time,
13 along with coverage of local and international news. Although newspaper
14 subscribers tended to be “elites,” newspaper content was widely shared by word-of-
15 mouth: ultimately, most Americans in the Founding Era, including those who
16 would be classified as illiterate or poorly educated by today’s standards, got their
17 news from newspapers.

18 18. The invention of the steam engine in the 19th century, along with
19 growth of paper mills that facilitated the production from wood pulp of large,
20 inexpensive rolls of newsprint, led to a revolution in print technology. This, in turn,
21 led to an explosion in the size of newspapers and the frequency of their publication,
22 to the point where, at their height, papers in big cities were publishing several
23 editions a day. This growth in newspapers, along with a substantial increase in
24 periodical and book production, paralleled a growth in literacy in the US and
25 Europe that tracked the industrial revolution and the subsequent rise in universal
26 public education. By the end of the Civil War, there were more readers in America
27 than ever, and they demanded more reading material.

28 19. As for the question of “elites,” newspapers of the 18th and 19th

1 centuries were the principal means of communicating news and information. As
2 such, they embodied much of the language of the “ordinary people” who read them.
3 These early newspapers also provide researchers with more data for the 19th
4 century than a corpus like COHA, which covers the same period but tends to focus
5 on literary and specialized texts rather than material for the general reader.

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

12 21. The newspaper databases that I have examined are Readex Historical
13 American Newspapers; Chronicling America (newspapers digitized by the Library
14 of Congress); the British Newspaper Archive (a service of the British Library); and
15 two private subscription services, newspapers.com and newspaperarchive.com. For
16 this report, newspapers.com provides the most-complete picture of the language of
17 the Founding Era newspapers as well as the ordinary language of the later 19th
18 century.

19 22. All the databases contain some duplicates. COFEA and COEME
20 digitize multiple editions of the same work; and the newspaper databases contain a
21 number of duplicate stories because, particularly in the period of newspaper growth
22 during the 19th century—in an age before the wire services and syndication
23 appeared, and before the larger papers began to set up news bureaus in key areas
24 around the country and around the world—newspapers routinely printed each
25 other’s stories, sometimes acknowledging their source and sometimes not. Still, the
26 databases often offer more insight into the meaning of words and phrases than
27 simply going to a dictionary. Jurists from Learned Hand and Felix Frankfurter to
28 Frank Easterbrook and Richard Posner have warned their colleagues not to make a

1 fortress of the dictionary. The corpora are by necessity incomplete. LCL doesn't
2 replace dictionary look-ups, but it does provide an important supplement to them.

3 **III. THE MEANING OF ARMS AND ACCOUTREMENTS IN THE DATABASES**

4 23. I was asked to look at the meaning of *arms* and *accoutrements* as used
5 individually, along with the phrase *arms and accoutrements*, current in the
6 Founding Era and during the period immediately following the adoption of the
7 Fourteenth Amendment.

8 24. In the eighteenth and nineteenth centuries, *magazine* was a word that
9 meant 'storehouse, depot.' A *magazine* was a place, often a building or warehouse,
10 to store goods and supplies. When used in a military sense, a *magazine* was a
11 building designated for storing gunpowder, and as such, it was subject to strict
12 regulation. Because gunpowder was an explosive substance, some towns banned or
13 heavily regulated the storage of gunpowder within city limits. The word *magazine*
14 was not typically used to refer to the compartment of a gun containing bullets until
15 late in the nineteenth century. Although the term *magazine* appears in the phrase
16 *magazine wind gun* in 1744, that usage is marked as "rare" by the Oxford English
17 Dictionary, which also marks the phrase *magazine wind gun* as "obsolete." In its
18 separate, main entry for *magazine*, the OED gives the earliest use of *magazine* to
19 mean a bullet storage container as 1888, and the term remained relatively rare until
20 the 1920s. Before that time, bullets were kept in *cartridge boxes* or *cartridge*
21 *cases*, and these bullet storage containers were part of the general category of
22 military *accoutrements*, not *arms*.

23 25. The data on *accoutrements* suggest that parts of firearms such as
24 magazines are not *arms*, but *accoutrements*, the ancillary equipment associated with
25 soldiering, or service in the military. *Cartridges*, *cartridge boxes* and later,
26 *detachable magazines*, are not arms in and of themselves.

27 26. The OED, the standard dictionary of the English language compiled on
28 historical principles, defines *accoutrements* as, "items of apparel; (more generally)

1 additional pieces of dress or equipment, trappings; (Military) the outfit of a soldier
2 other than weapons and garments.” [OED online, s.v. *accoutrement*; the *OED* and
3 the corpus evidence makes clear that *accoutrements* typically occurs as a plural].

4 27. *Accoutrements* in its non-military sense typically refers to specialized
5 clothing—that associated with certain professions (for example, clerical robes) or
6 suitable for fancy-dress occasions (ball gowns, tuxes, and other formal attire). But
7 the military sense of *accoutrements* generally refers not to uniforms or to weaponry,
8 but to other military accessories worn or carried by soldiers. The example given by
9 the OED to illustrate this second, military, sense is from the Duke of Wellington’s
10 dispatches in 1813: “In order to collect the wounded and their arms and
11 accoutrements.” Here Wellington, widely recognized as a consummate soldier, and
12 who would soon defeat Napoleon at the Battle of Waterloo in 1815, makes a clear
13 distinction between *arms* and *accoutrements*.

14 28. The term *accoutrement-maker*, though not defined separately by the
15 OED, is illustrated with examples referring to a manufacturer of military
16 accessories rather than arms; and the term *accoutrement shop* has this 1831
17 example where guns and accoutrements are differentiated: “The crowd was so
18 great in the Rue de Richelieu, . . . especially about the gunsmiths and accoutrement
19 shops in the vicinity of the Palais Royal.” [*United Service Jnl.* i. 325]

20 29. The OED definitions are instructive. But in order to determine more
21 specifically what the term *accoutrements* refers to, I consulted two digitized
22 historical databases, or corpora. A COFEA database search for the occurrence
23 *accoutrements* within 6 words of *arms* returned 873 hits (including a small number
24 of duplicates). A similar search of COEME returned 126 hits, the earliest from
25 1656. I determined that the two search terms, *arms* and *accoutrements*, often appear
26 together as a single phrase, *arms and accoutrements*, typically in military contexts
27 having to do with an army or militia unit. *Accoutrements* often occurs in a list
28 alongside, but separate from, ammunition: *arms, accoutrements, (and) ammunition*,

1 though when *ammunition* is not listed separately, the term *accoutrements* will
2 generally include *ammunition*. *Accoutrements* sometimes occurs in a list alongside
3 *clothing*, suggesting it may not always include uniforms (this finding informs the
4 *OED* definition: military equipment other than arms and uniforms). But
5 occasionally, *accoutrements* may include items classified as part of a uniform
6 (influenced, most likely, by the general, nonmilitary sense of *accoutrements*, where
7 the term usually refers to clothing associated with particular professions or
8 activities). In sum, in the vast majority of examples, *accoutrements* functions as a
9 catch-all term for military equipment *separate* from, and not including, *arms*.

10 30. But English usage is never simple. As linguists often say, “all
11 grammars leak”—which is to say, there are always a few counterexamples in the
12 data. The existence of counterexamples does not invalidate the data or undercut an
13 interpretation: it simply shows that although the users of a language share a
14 common sense of what words and grammatical constructions mean, variation in
15 meaning and usage is a necessary aspect of all human language. It is not surprising,
16 then, that rarely, in COFEA, *accoutrements* does encompass *arms*, as it does in this
17 example:

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

21 31. This cite from 1776 refers to guns and *other* military accoutrements,
22 implying, too, that arms may be a subcategory of *accoutrements*:

23 [He] shall be provided with a fire arm and other military accoutrements
24 provided by the militia law.

25 32. But besides a handful of exceptions, in literally hundreds and hundreds
26 of cases, *arms* and *accoutrements* are treated as separate items of military gear.
27 Here are some typical examples from the Founding Era:
28

1 **1776:** Fire arms and accoutrements

2 **1780:** arms, ammunition, accoutrements, drums and fifes in
possession of the respective regiments.

3 **1795:** you will march . . . with arms and accoutrements in good order.
4 If any volunteer should want arms and ammunition, bring them
forward, and they shall be supplied as well as possible. [COEME;
5 the other examples in this list are from COFEA]

6 **1798:** To hold his powder and his ball, his gun, accoutrements
and all . . . [This example rhymes because it's from a poem,
7 indicating 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.]

8 33. A second COFEA search, for *accoutrements* alone, returned 1,235 hits.
9 COEME yields 771 hits. These searches add a number of non-military contexts,
10 where accoutrements refers to religious gear (robes, mitres, and so on) as well as
11 other sorts of fancy or special clothing. These non-military examples do not
12 reference weapons, ammunition, or other military equipment.

13 34. I supplemented my COFEA search with a search of the newspaper
14 database, newspapers.com, for the Founding Era period, 1750–1800. The
15 newspaper databases do not permit the kind of collocate searches that COFEA,
16 COEME, and COHA allow. Entering two search terms returns results in which
17 either one or both terms occur on the same page, though not necessarily in the same
18 sentence, or even in the same article, and not necessarily as linked terms. There are
19 1,392 hits for *accoutrements*. There are 692 matches for the exact phrase *arms and*
20 *accoutrements*.

21 35. Here's a mid-18th century British example from the newspapers.com
22 corpus where *arms* and *accoutrements* are separate categories, as is *ammunition*:
23 “This Militia shall receive their Arms, Accoutrements, and Ammunition from the
24 Ordnance.” *Derby Mercury*, 1756.

25 36. Similarly, there's this “ploughshares into swords” example of a
26 Cambridge University library to be converted to military use: “[T]he new Building
27 intended for a publick Library . . . may be converted into a Barrack, and be supplied
28

1 with Provisions, Arms, and Accoutrements, at the Expence of the University.”
2 *Jackson's Oxford Journal* 1756.

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

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

16 39. The text of a bill in Congress to establish a uniform militia appeared in
17 the *New York Journal*, in 1790. It confirms the Founding-Era sense that *arms*,
18 *ammunition*, and *accoutrements* make up distinct and separate elements of a
19 soldier’s kit: “There shall be appointed an adjutant general for each state . . . whose
20 duty it shall be to . . . report[] the actual situation of their arms, accoutrements, and
21 ammunition. . . Every non-commissioned officer or private . . . for appearing at
22 such meeting or rendezvous without his arms, ammunition, or accoutrements, as
23 directed by this act, shall pay the sum of twenty-five cents.”

24 40. And this cite from 1868 clearly distinguishes what counts as arms, and
25 what counts, separately, as accoutrements: “At Watertown Arsenal, Massachusetts
26 . . . the following Arms, &c., will be sold: 10,699 rifled and smooth-bore Muskets . .
27 . ; 261 Carbines . . . ; 305 Sabres . . . ; lot of cavalry accoutrements, consisting of
28 Bayonet Scabbards, Cap Pouches, Cartridge Boxes, Gun Slings, Waist Belts, &c.”

1 *Daily Morning Chronicle* (Washington, DC).

2 41. The newspaper data parallels that of COFEA: the phrase *arms and*
3 *accoutrements* is almost always military. The phrase sometimes occurs alongside
4 *ammunition* as a separate list item. *Accoutrements*, when it appears alone, is a more
5 general term, used both for military and other gear, though in non-military contexts
6 it is more directed toward clothing rather than ‘equipment’ (priests’ robes,
7 ministerial garb, fancy ball gowns, badges of office), as is also indicated in the
8 OED citations. In non-military contexts, *accoutrements* carries the suggestion of
9 ceremonial gear, and less commonly, nonmilitary tools of the trade.

10 42. It’s clear that *arms and accoutrements* was, during the 18th and 19th
11 centuries, a common military phrase, in both England and America. English often
12 yokes terms commonly found together into idiomatic pairings, sometimes called
13 binomials, like *bacon and eggs*, *salt and pepper*, or, in a legal context, *assault and*
14 *battery* or *breaking and entering*. Such pairs take on the characteristics of a
15 formula, and often appear in the same order (this order may be dictated by logical
16 succession of events, or it may be random). *Eggs and bacon* is rarer than *bacon*
17 *and eggs*. And it would be unusual to find *battery and assault*. Such ordered pairs
18 are called “irreversible binomials,” though there’s nothing but custom (as in *salt*
19 *and pepper*) and sometimes logic (as in *breaking and entering*) to prevent anyone
20 from reversing the order.

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

24 44. There are over 47,000 citations in newspapers.com for *arms* or
25 *accoutrements* in the period 1868–1900, and 15,799 cites for the exact phrase *arms*
26 *and accoutrements*. Examining a selection of the 15,799 citations of the phrase
27 confirms that both in England and the US, *arms* and *accoutrements* are separate
28 categories. Here is one example from Gloucestershire, in England, dated 1868: “[A]

1 letter was received from the Home Secretary, pointing out the danger of permitting
2 an accumulation of arms and accoutrements to take place in prisons, and requesting,
3 if there were any arms or munitions of war stored in the prison, that they should be
4 removed to the nearest military depot” *Gloucestershire Chronicle* (Gloucester,
5 England), 1868.

6 45. A similar cite from Iowa in 1868: “Persons having in their possession
7 any arms, accoutrements or ammunition belonging to the State, are requested to
8 return the same at once to the Adjutant General, as proper places have been
9 provided by the State for the safe keeping of all such property” *Cedar Falls Gazette*
10 (Cedar Falls, Iowa), 1868.

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

15 47. The circa-1868 data confirmed the Founding Era data that
16 *accoutrements* is primarily a military term, and that when *accoutrements* co-occurs
17 with *arms*, the terms refer to separate categories of equipment.

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

26 49. In the citation above, *accoutrements* does not refer to weaponry, but to
27 the more general category of ‘everyday attire, or clothing.’ the Court is saying that
28 it may be normal to wear a shirt, or a belt, or shoes, but it’s not normal to wear a

1 gun in North Carolina in 1843. It's legal—the Court agrees—to carry a gun for any
2 lawful purpose, “either of business or amusement”—but it's not *normal* or typical
3 to do so. In affirming Huntley's conviction, the Court noted that his purpose in
4 carrying a shotgun was not a legal one.

5 **IV. SOME HISTORICAL NOTES ON THE USE OF THE WORDS *MAGAZINE* AND**
6 ***MAGAZINE WIND GUN*, AND ON REPEATER AIR GUNS IN THE FOUNDING**
7 **ERA**

8 50. Today a gun magazine refers to a bullet container for a gun. That use
9 of *magazine* began to appear in the mid-nineteenth century and became common by
10 the early twentieth. According to the OED, in the 18th and early 19th centuries, the
11 word *magazine* referred generally to ‘a storehouse,’ and in military contexts it
12 referred specifically to a storehouse for gunpowder. (The sense of ‘storehouse’ also
13 led to the use of *magazine* to refer by the 18th century to a print publication
14 containing a variety of articles, and its sense of ‘depot, warehouse,’ is cognate with
15 the French word *magasin*, ‘a shop or store’).

16 51. Although most uses of the word *magazine* still refer to printed
17 periodicals, during the 19th century, one sense of the term *magazine* narrows,
18 referring more and more to an ‘ammunition container,’ a primary sense of the word
19 in reference to firearms today. The OED defines *magazine*, sense IV b, as “A
20 container or (detachable) receptacle in a repeating rifle, machine-gun, etc.,
21 containing a supply of cartridges which are fed automatically to the breech,” with
22 the earliest citation in this sense from 1868, the time period that marks the
23 ratification of the Fourteenth Amendment and so is relevant to this LCL analysis.

24 52. However, as with a very few instances of *accoutrements* including
25 *arms*, there are an extremely small number of early counterexamples where
26 *magazine* refers to the bullet compartment of a gun. The term “magazine wind
27 gun” first appears in 1744 as the name of an air gun invented by one L. Colbe. The
28 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

1 the air gun did not require powder or a match, the user had to re-charge the
2 compressed air cylinder once the air had been expended. The writer Oliver
3 Goldsmith found air guns to be useful for experiments in physics, adding, “THIS,
4 however, is but an instrument of curiosity, and sometimes of mischief.” [Oliver
5 Goldsmith, *A survey of experimental philosophy, considered in its present state of*
6 *improvement*, 1776.] This newspaper story reports that the scientist Joseph
7 Priestley was injured by an accidental discharge of an air gun: “We hear from
8 Birmingham, that the celebrated Dr Priestley, in a late trial of some experiments
9 with an air gun, was badly wounded by an accidental discharge of it; the ball with
10 which it was loaded, passing thro’ one of his hands, and shattering it to pieces.”
11 [*The Leeds Intelligencer and Yorkshire General Advertiser*, June 5, 1781, p. 3.]

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

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

23 55. The OED dates the term *magazine wind-gun* to 1744 in a reference to
24 an air gun capable of firing more than one shot without reloading. *Magazine wind-*
25 *gun* is the term used by its inventor, a man named L. Colbe, who also uses the term
26 *magazine gun* for that device. In an entry separate from its entry for *magazine*, the
27 OED marks the usage of both “magazine wind gun” and “magazine gun” as “rare”
28 and “obsolete”:

1 †magazine wind-gun *n. Obsolete rare* a type of wind-gun fitted with
2 a magazine of bullets. 1744 J. T. Desaguliers *Course Exper. Philos.* II.
3 399 An ingenious Workman call'd L. Colbe has very much improv'd
4 it [*sc.* the old Wind-Gun], by making it a Magazine Wind-Gun; so that
5 10 Bullets are so lodg'd in a Cavity..that they may be..successively
6 shot. [Oxford English Dictionary Online, s.v. magazine wind-gun.]

56. The OED citation is from John Theophilus Desaguliers, *A Course of*
6 *experimental philosophy*. London, 1744, vol. II:399–402. Desaguliers, a
7 “philosopher” or scientist who specialized in mechanics and hydraulics, was a
8 member of the Royal Society and an assistant to Isaac Newton. In his treatise, he
9 offers an elaborate description of the common, single-shot wind gun, more typically
10 referred to as an air gun, along with a three-page description of Colbe’s so-called
11 “Magazine Wind-Gun,” accompanied by a detailed drawing of the mechanism. I
12 have found no biographical information about L. Colbe, inventor of the gun, and
13 there is no lexical evidence that Colbe made more than one such gun, or if he did,
14 that it was produced in any significant numbers. There is no lexical evidence that
15 the other repeater air guns or magazine wind guns were ever more than a curiosity
16 until workable models of what we now call machine guns, which used conventional
17 gunpowder and bullets, not compressed air and balls, were produced during and
18 after the Civil War.

57. As further confirmation that the *magazine wind gun* was an anomalous
19 and uncommon term, the OED definition of *magazine*, updated most-recently in
20 2022, gives the earliest date of the sense of the word as a bullet-container as 1888.
21 The corpus evidence confirms that the magazine wind gun is correctly dated by
22 OED as 1744, and I have found references to *magazine air guns* in the 1790s and
23 early 1800s, but this usage of the word remained rare. “Magazine wind-gun” and
24 “magazine gun” do not appear in the COEME or COFEA corpora. I have found no
25 information in the corpora on the availability or popularity of such guns, but the
26 sparse lexical data suggests they were not in common use. In addition, although
27 Desaguliers describes the mechanism of the wind gun as “not to be easily put out of
28

1 order,” his description and accompanying drawing shows that it is in fact quite
2 complex, not something that could be repaired by a soldier or non-specialist
3 civilian. A small number of references to later repeater wind guns indicate they
4 were made by clockmakers and other highly-skilled artists or artisans, and it is
5 reasonable to assume that they too would require a specialist knowledge and
6 specialist tools to repair the mechanism. There is no indication in the lexical
7 evidence that repeater air guns were ever mass produced or publicly available in the
8 Founding Era (1776–1820). Several of the citations I found treat these guns as
9 curiosities and their owners charge a small fee to anyone interested in looking at
10 them (and in one case, trying the gun out).

11 58. Here is what Desaguliers says: “An ingenious Workman called L.
12 Colbe, has very much improved it [the air gun, or wind gun as Desaguliers calls it],
13 by making it a Magazine Wind-Gun; so that 10 Bullets are so lodg’d in a Cavity
14 near the Place of Discharge, that they may be drawn into the shooting Barrel, and
15 successively shot so fast as to be of the same use as the same Number of Guns; the
16 only Motion requir’d (when the Air has been injected before-hand) being the
17 shutting and opening of the Hammer, and cocking and pulling the Trigger. . . . The
18 Excellency of the Magazine-Gun, as he calls it; the rest being like another Wind-
19 Gun.” [Vol II, p. 399; following this are two pages describing the mechanism in
20 painstaking detail.]

21 59. Desaguliers then continues:

22 The 10 or 11 very effectual Shot may be made one after another,
23 without new injection of Air. . . . The Magazine . . . receives the
24 Bullets at its Opening D, over which a Plate X comes to Shut them in;
25 and they are kept in readiness to be brought into the shooting Barrel
26 by the Motion of the Hammer in the expeditious manner describ’d.
27 This is far preferable to any of the old Wind-Guns; because t’ho some
28 of them will hold Air for several Discharges, the Bullet must be put
down the Mouth of the Barrel every time, which cannot be done soon;
but in Colbe’s Gun the Bullet is brought into the Barrel in a Moment. .
. . .; and the whole so well executed as not to be easily put out of order.
For these Reasons it may be look’d upon as the best Defence against

1 Highway-men, or Robbers that Travellers are aware of because when
2 they have cause to suspect them, they may make five or six
3 Discharges before a Thief can come within Pistol-Shot.” [Pp. 401–
402; in this transcription I have modernized the long *f* as the letter *s* to
make the passage easier to read for the modern reader.]

5 Despite Desaguliers’ optimism, there is no evidence in the corpora that Colbe’s
6 “machine wind gun” was ever used either as a military weapon or as a weapon of
7 self-defense.

8 60. There are several other references in newspaper databases to repeater
9 air guns in the period 1776–1820. They too seem to be rare inventions or
10 curiosities, not weapons commonly available to the military or the American or
11 English public:

12 1783 “Vienna. A watchmaker has invented an Air Gun, which,
13 without recharging, fires 15 times successively. A corps of Hunters
14 are to be armed with these guns.” *The Newcastle Weekly Courant*
(England), May 10, 1783, p. 3. The writer does not use the term
magazine to describe this gun, and there is no follow-up to indicate
whether the corps of Viennese hunters did employ such a weapon.

15 1784 “An artist of this town [Birmingham, Eng; the artist is also
16 identified as a compass maker] has lately invented a magazine gun,
17 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
18 piece.” *New York Packet and American Advertiser* (New York, NY),
Aug. 5, 1784.

19 1792 A number of American newspapers report on the invention by a
20 man from Rhode Island of a repeating air gun capable of firing 20
21 times without reloading. Here is one: “A person in Rhode Island has
invented an Air-gun, which can be discharged, to do execution, 20
22 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
23 at War, to be used in the approaching campaign against the Indians.”
National Intelligencer: National Gazette, April 26, 1792, p. 3.

24
25 61. These articles do not use the word *magazine* in reference to the gun,
26 and there is no indication that the Secretary of War acted on the suggestion in the
27 article from the *National Intelligencer*. In fact, the following advertisement
28 suggests that the repeater air gun in question was treated as a curiosity to be

1 admired in a museum: “An air-gun, made by a young man, a native of Rhode-
2 Island, but now resident in this city [New York], and which has been purchased by
3 the subscriber, with a view eventually to make it the property of the American
4 museum but wishes to reimburse himself in the following manner, viz. He will
5 exhibit it to the examination of all persons desirous of viewing it, and of
6 discharging a shot, for which they shall pay six-pence. This gun, when properly
7 filled with air, will do execution twenty times, without renewing the charge, and for
8 several times will send a ball thro’ an inch board, at the distance of sixty yards, to
9 be seen at the subscribers, No. 13 Maiden Lane, every day in the week, from 10 to
10 12 in the forenoon, and from 3 to 5 in the afternoon, Tuesday and Friday afternoons
11 excepted, at which time it may be seen at the Museum. Gardiner Baker, Keeper of
12 the Museum.” *New York Daily Advertiser*, Feb. 9, 1792.

13 62. There is a report in 1796 of German troops being issued a repeater air
14 gun, invented in the reign of Joseph II, of the Holy Roman Empire (*reg.* 1765–
15 1790): “This carabine, lighter and smaller than the common ones, is composed of
16 two barrels, the smallest of which contains 25 balls: and by a slight movement, they
17 pass from the one to the other; which ball, by lowering the firelock, goes off with
18 the same rapidity and carries further than if fired with powder, without the least
19 noise, and that as often as a hundred times alternately, during the space of 8 or 10
20 minutes; after which, the reservoir being exhausted, it requires to pump in fresh air,
21 which takes up at most, 16 minutes.” *The Independent Gazetteer* (Philadelphia),
22 Aug 6, 1796, p. 1. The article adds that a sample weapon was given to the Prince of
23 Wales, and the writer suggests such guns would be useful at sea, since they are not
24 affected by dampness. But there is no indication in the corpora that the Royal Navy
25 ever considered such a weapon. The article does not use the word *magazine* in
26 connection with the weapon.

27 63. Here is another instance, in 1797, referring to a repeater air gun: “An
28 Air GUN has been constructed by Messrs. Darlings and Wilkinson, of Cumberland,

1 Rhode Island, upon a plan entirely new. It can be discharged twelve times with
2 once loading, and will do execution with great exactness, at fifty yards distance.”
3 *Columbian Centinel* (Boston), June 21, 1797. Again, there is no use of *magazine* in
4 the article.

5 64. In 1801, multiple newspapers run the story of a repeater air gun
6 invented by a man known as Girardami, identified as a “peasant” and watchmaker
7 and variously referred to in gun history articles as Girandoni or Girardoni (those
8 spellings do not appear in the corpora): “Girardami, a Tyrolese peasant, and self-
9 taught artist, has invented an air-gun, which may be discharged fifty times without
10 pumping again. The first twenty shots penetrate through a door at an uncommon
11 distance. Girardami makes these air-guns himself, and likewise very good wooden
12 watches.” *The Caledonian Mercury* (Edinburgh), Mar. 2, 1801, p. 2. There is no
13 use of *magazine* in these articles.

14 65. And in 1802 we find this reference to an exhibitor charging admission
15 to see repeater air gun: “The Newly-Invented Philosophical Air Gun That can be
16 used as Gun or Pistol, and discharge 20 balls with one loading of the globe [that is,
17 the compressed-air cylinder], unless the charge of air is let out at once. To be seen
18 at Mr. Wyant’s tavern, Market street, both night and day. Admittance one fourth of
19 a dollar.” *Telegraphe and Daily Advertiser* (Baltimore), March 17, 1802.

20 *Philosophical* in this sense is often used to refer to physicists experimenting with
21 air guns to measure air temperature, pressure, and volume, among other things (see,
22 for example, the work of Desaguliers and the experiments of Goldsmith and Boyle
23 mentioned above). And again, no use of *magazine*.

24 66. A brief ad appears in 1807 for an auction includes, among other items,
25 “an air gun in compleat order which, when loaded will discharge twenty five times
26 after being pumped.” *American Citizen* (New York, NY), May 28, 1807. No
27 mention of *magazine*.

28 67. There are several accounts that Lewis and Clark took a repeater air gun

1 on their expedition to the Pacific. Only one instance in the databases, in 1814,
2 alludes to that weapon, though the article itself has nothing to do with the
3 expedition. Instead, this letter to the newspaper, criticizing a politician for
4 repeating the same things he's been saying for years, suggests as well that the
5 Lewis and Clark repeater air gun was used not for hunting or warfare but rather to
6 dazzle the Indians that the explorers encountered with their "great medicine,"
7 thereby ensuring a peaceful encounter: "he [the politician in question], forthwith,
8 becomes a "great medicine," as the Shoshones called captain Lewis' air gun."
9 *National Advocate*, Mar. 23, 1814. There is no use of *magazine* in reference to the
10 weapon.

11 68. Here is another advertisement, from 1815, for "one magazine Gun,
12 when once loaded can be discharged ten times in a minute." *New York Gazette*,
13 Aug. 30, 1815. This is the third and last use of *magazine* to refer to a bullet holding
14 compartment of a gun before the mid-19th century.

15 69. Finally, there is an ad in 1819 for a French repeater air gun, for sale at
16 90 crowns: "which discharges 20 times before the air is expended." *Salem Gazette*
17 (Massachusetts), Feb. 5, 1819. There is mention of *magazine* in reference to the
18 gun.

19 70. Corpus data shows that *magazine gun* and *magazine air gun* are
20 extremely rare terms, occurring a mere three times in the corpora. In contrast, there
21 are approximately 1,200 references to the phrase "air gun" in the several databases
22 that I consulted. Subtracting an estimated 150 duplicates, that leaves about 1,050
23 references to a single-shot air gun. In contrast, subtracting estimated duplicates, I
24 found 12 references to repeater air guns. Two of these references suggest that they
25 would be useful weapons for the military; one recommends their use to hunters;
26 and, in one case, the writer speculates that the weapon would be useful for self-
27 defense. But for the most part, these early repeaters seem to be treated as
28 curiosities: marvels of engineering constructed by clockmakers or other skilled

1 artisans, items to be seen in a museum or exhibited at a tavern. There is no lexical
2 evidence that they were manufactured in quantity. Their mechanisms were
3 complex, requiring a clockmaker's skill to design, make, and repair. And it took
4 time to re-charge the air cylinder (one source suggests 16 minutes for one such
5 repeater air gun, which would render them suboptimal in battle situations). A
6 couple of entrepreneurs charged admission to view them, and in one case, to try
7 shooting the gun. The Lewis and Clark example seems to have been used to
8 "impress" potentially hostile Indians rather than as a weapon against them. It too
9 may have been a one-off. Furthermore, only three of the twelve references to
10 repeater air guns refer to the bullet container as a *magazine*, a further indication that
11 this usage is extremely rare.

12 71. With advances in the design and manufacture of guns and ammunition,
13 by the mid-nineteenth century, the term *magazine* starts to appear in the sense
14 'ammunition container' (replacing the earlier terms *cartridge box* or *cartridge*
15 *case*), not in air guns but in ones using gunpowder and bullets.

16 72. COFEA and COEME do not cover the period past 1800. COHA,
17 which does have 19th century coverage, turns up only a handful of uses of
18 *magazine* in collocation with bullets, guns, rifles, or weapons in the 1890s, and only
19 three such uses before 1820. Most COHA cites for *magazine* refer to print
20 magazines; a smaller number from 1820–1880 refer to gunpowder storehouses.
21 Searching the word *magazine* in newspapers.com results in more than 3.3 million
22 hits, the vast majority of them also referring to print journals. *Magazines* meaning
23 'devices for holding bullets' form only a very small subset of these citations. After
24 its appearance in the 1880s, it took some thirty to forty years for the 'bullet holder'
25 sense of the word *magazine* to become more common, and even then, text
26 references to ammunition magazines often appear, not in general discourse, but in
27 legislation restricting their size or use.

28 73. Most militia laws and regulations from the Founding Era specify

1 minimum requirements for soldiers' weapons, ammunition, and accoutrements.
2 Most laws regulating weapons in the mid-19th century restrict or ban specific kinds
3 of weapons, often enumerating them, sometimes in terms we find colorful today but
4 which were common at the time (Arkansas toothpicks, Bowie knives, slung shots,
5 swords in canes, pistols capable of being concealed in a pocket). Occasionally,
6 these laws further identified such weapons as those used by "brawlers," thieves,
7 robbers, or others bent on illegal activities. Other weapons restrictions follow the
8 English tradition of limiting possession of weapons by social class, nationality, or
9 race.

10 74. Although militia laws do specify weapons and other required
11 accoutrements or pieces of military equipment, including horses for the officers,
12 those laws that prohibit certain kinds of weapons during the two critical periods
13 (1789–1810; 1868–1880) do not single out *parts* of weapons. Here is one
14 exception, from a 1776 Maryland statute: "Resolved, that no muskets or rifles,
15 except by the owner thereof on his removal to reside out of this province, or any
16 gun barrels, gun locks, or bayonets, be carried out of his province, without the leave
17 of the council of safety for the time being." [1776 Md. Laws 146].

18 75. I surveyed the gun regulations in the Duke Historical Database from
19 the early medieval period through 1885 to see what terminology was used. None of
20 the laws that prohibit weapons, aside from the Maryland statute above, specifies a
21 gun part or ammunition case or accoutrements of any kind. Although many present
22 a list of banned or prohibited weapons—usually without defining them [the
23 assumption is that the reader knows what they refer to], none of the laws mention
24 cartridge boxes, bullets, barrels, or other parts of any weapons.

25 76. Later, however, in the decades after the introduction of *magazines* as
26 'carriers or holders of one or more bullets,' laws and regulations against their
27 nonmilitary use started to appear. Here's a 1919 Maine law banning guns with
28 loaded magazines: "No person shall have a rifle or shotgun, either loaded or with a

1 cartridge in the magazine thereof, in or on any motor vehicle while the same is
2 upon any highway or in the fields or forests.”

3 77. Laws banning *machine guns* or firearms with *magazines* capable of
4 firing multiple times without reloading appear in Vermont (1923), Rhode Island
5 (1927), and Massachusetts (1927), among other states. Rhode Island’s law bans
6 magazines which fire automatically or which hold more than twelve rounds:
7 “machine gun include any weapon which shoots automatically and any weapon
8 which shoots more than twelve shots semi-automatically without reloading.”

9 78. A 1933 Texas law bans “machine guns” capable of firing “more than
10 five (5) shots or bullets.”

11 79. Finally, the Federal Firearms Act of 1934, which introduced a
12 nationwide system of taxes, fees, and registration requirements for the transfer of
13 certain types of guns, specifies in great detail the nature of the “firearms” covered
14 by the statute, including their barrel length and type of firing mechanisms: “(a) The
15 term ‘firearm’ means a shotgun or rifle having a barrel of less than eighteen inches
16 in length, or any other weapon, except a pistol or revolver, from which a shot is
17 discharged by an explosive if such weapon is capable of being concealed on the
18 person, or a machine gun, and includes a muffler or silencer for any firearm
19 whether or not such firearm is included within the foregoing definition.”

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

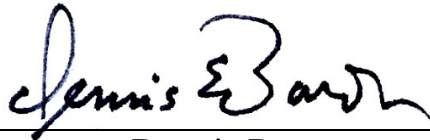
25 CONCLUSION

26 In sum, the term *accoutrements*, when it occurs alone, in a specifically military
27 context, may function as a general term that includes *arms*, though it does not
28 always include arms. In non-military contexts, *accoutrements* does not refer to

1 arms but instead to civilian attire associated with specific professions, like the
2 clergy, or to fancy dress. Such garb *does not* normally include weaponry. But there
3 is no data that I have found showing that arms includes accoutrements, magazines,
4 or any other parts of weapons.

5 I declare under penalty of perjury of the laws of the United States that the
6 foregoing is true and correct.

7 Executed on January 6, 2023 at Hove, England.

8
9
10
11 

12 _____
Dennis Baron

EXHIBIT A

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IBM Project Excel Grant C-41, 1986-87: “Computer Analysis of Student Writing.”
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Books:

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<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;

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- 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.

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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.

Dennis Baron, *Vita*, 13

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.

EXHIBIT 50

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9 *in his official capacity*¹

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14
15 **STEVEN RUPP; STEVEN**
DEMBER; CHERYL JOHNSON;
16 **MICHAEL JONES;**
CHRISTOPHER SEIFERT;
17 **ALFONSO VALENCIA; TROY**
WILLIS; and CALIFORNIA RIFLE
18 **& PISTOL ASSOCIATION,**
INCORPORATED,

19 Plaintiffs,
20

21 v.

22 **ROB BONTA, in his official capacity**
as Attorney General of the State of
23 **California; and DOES 1-10,**

24 Defendants.
25

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL EXPERT
REPORT AND DECLARATION
OF RYAN BUSSE**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

26
27 ¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the
Attorney General of the State of California. Pursuant to Federal Rule of Civil
28 Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as
the defendant in this case.

SUPPLEMENTAL EXPERT REPORT AND DECLARATION OF RYAN BUSSE

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

1. I have been asked by the Office of the Attorney General of the California Department of Justice to prepare an expert report and declaration on the purpose and use of certain firearm accessories or configurations. This supplemental expert report and declaration (“Report”) is based on my own personal knowledge and experience, and, if I am called as a witness, I could and would testify competently to the truth of the matters discussed in this Report.

PROFESSIONAL QUALIFICATIONS

2. 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 and other types of rifles. 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.² I served in an executive sales capacity as Vice President of

² SHOT Business is a trade publication of the shooting and firearms industry,

1 Sales until August 2020. While in the industry I served as an advisor to the United
2 States Senate Sportsmen's Caucus, and as the board chairman for Backcountry
3 Hunters & Anglers, a national wildlife conservation and hunting organization.

4 3. I left the firearms industry because I was concerned about what I
5 believed to be irresponsible and dangerous marketing and sales practices. Since I
6 left, I have served as an advisor to the 2020 Biden presidential campaign, I have
7 testified twice before the U.S. Congress about the firearms industry and gun policy
8 (before the House Committee on Oversight and Reform³ and the Joint Economic
9 Committee⁴, respectively), I have been called to testify in closed-door briefings at
10 the U.S. Senate, and I currently serve as a Senior Advisor to Giffords. I remain a
11 proud and active gun owner, outdoorsman, and advocate for responsible gun
12 ownership.

13 4. On behalf of the California Department of Justice, on October 13,
14 2022, I submitted an expert declaration in *Miller v. Bonta*, a lawsuit in the Southern
15 District of California (Case No. 3:19-cv-01537-BEN-JLB) challenging how
16 California regulates assault weapons. On November 10, 2022, I submitted an
17 expert declaration in *Duncan v. Bonta*, a lawsuit in the Southern District of
18 California (Case No. 17-cv-01017-BEN-JLB) challenging how California regulates
19 large-capacity magazines.

20 5. On behalf of the Oregon department of Justice, on November 30,
21 2022, I submitted an expert declaration in *Oregon Firearms Federation Inc. v. State*
22 *of Oregon* (Case No. **Error! Reference source not found.**), a lawsuit challenging
23 Oregon's large-capacity magazine law. On behalf of the Washington Department of
24 Justice, on October 17 2022, I submitted an expert declaration in *Brumback v.*
25 _____
26 and "Person of the Year" was the highest award given to an individual in the
27 firearms industry.

27 ³ See <https://bit.ly/3CVDQc4>.

28 ⁴ See <https://bit.ly/3My2gLJ>.

1 *Ferguson* (Case No. 1:22-cv-03093-MKD), a lawsuit challenging Washington’s
2 large-capacity magazine law.

3 **OPINIONS**

4 6. I have reviewed the statutory definitions of an “assault weapon,” as
5 defined under California’s Assault Weapons Control Act (AWCA) in California
6 Penal Code section 30515(a).⁵ According to those definitions, certain firearms may
7 qualify as an “assault weapon” if they have certain accessories attached to them or
8 if they are configured in certain ways.

9 7. Under Penal Code section 30515(a), a semiautomatic centerfire rifle
10 that does not have a fixed magazine qualifies as an assault weapon if it has any of
11 the following features: (1) a pistol grip that protrudes conspicuously beneath the
12 action of the weapon; (2) a thumbhole stock; (3) a folding or telescoping stock; (4)
13 a grenade or flare launcher; (5) a flash suppressor; or (6) a forward pistol grip.⁶ A
14 semiautomatic centerfire rifle also qualifies as an assault weapon if it is equipped
15 with a fixed magazine with the capacity to hold more than 10 rounds or has an
16 overall length of less than 30 inches.⁷

17 8. Under Penal Code section 30515(a), a semiautomatic pistol that does
18 not have a fixed magazine qualifies as an assault weapon if it has (1) a threaded
19 barrel (capable of accepting a flash suppressor, forward handgrip, or silencer; (2) a
20 second handgrip; (3) a barrel shroud that insulates the non-shooting hand from heat
21 during firing; or (4) the ability to accept a detachable magazine at any location
22 other than the pistol grip.⁸ A semiautomatic pistol can also qualify as an assault
23

24 _____
25 ⁵ See Cal. Penal Code § 30515, <https://bit.ly/3CtxfEj>.

26 ⁶ Cal. Penal Code § 30515(a)(1)(A)-(F).

27 ⁷ Cal. Penal Code § 30515(a)(2)-(3).

28 ⁸ Cal Penal Code § 30515(a)(4).

1 weapon if it has a fixed magazine capable of holding more than 10 rounds.⁹

2 9. Finally, a shotgun qualifies as an assault weapon if it is semiautomatic
3 and has both a folding or telescoping stock and a pistol grip beneath the action, a
4 thumbhole stock, or a vertical handgrip.¹⁰ A shotgun can also qualify as an assault
5 weapon if it (1) is semiautomatic and lacks a fixed magazine, or (2) has a revolving
6 cylinder that mechanically rotates after each shot.¹¹

7 10. The AWCA also qualifies any semiautomatic centerfire firearm that is
8 not a rifle, pistol, or shotgun and does not have a fixed magazine if it has any one of
9 the following: a pistol grip beneath the action; a thumbhole stock; a folding or
10 telescoping stock; a grenade or flare launcher; a flash suppressor; a forward pistol
11 grip; a threaded barrel (capable of accepting a flash suppressor, forward handgrip,
12 or silencer); a second handgrip; a barrel shroud; the capacity to accept a detachable
13 magazine at a location outside the pistol grip.¹² A semiautomatic centerfire firearm
14 that is not a rifle, pistol, or shotgun can also qualify as an assault weapon if it has a
15 fixed magazine capable of holding more than 10 rounds or is less than 30 inches in
16 length.¹³

17 11. Semiautomatic rifles, including AR-platform rifles, as well as
18 semiautomatic pistols and shotguns, are capable of firing one shot per each pull of
19 the trigger. Centerfire firearms are chambered with centerfire ammunition, which
20 has the primer located in the center of the base of the cartridge case (as opposed to
21 the rim of the cartridge). Today's modern rimfire ammunition is almost always
22 confined to small and less powerful cartridges, such as the .22LR. Bullets fired
23

24 ⁹ Cal. Penal Code § 30515(a)(5).

25 ¹⁰ Cal. Penal Code § 30515(a)(6).

26 ¹¹ Cal. Penal Code § 30515(a)(7)-(8).

27 ¹² Cal. Penal Code § 30515(a)(9).

28 ¹³ Cal. Penal Code § 30515(a)(10)-(11).

1 from these cartridges are small and light and move slower than almost all centerfire
2 rifle ammunition. Rimfire chamberings are common in youth and “beginner”
3 hunting rifles because they are relatively quiet, inexpensive and low recoil.
4 Conversely, modern centerfire ammunition requires a detonation of a primer in the
5 center of the cartridge (CENTERfire) and these cartridges are generally much more
6 powerful than rimfire cartridges. As example, the .223 which is the most common
7 AR-15 cartridge, fires bullets at more than 3000FPS (feet per second) vs a rimfire
8 cartridge that propels bullets at around 1100FPS. This increased centerfire velocity
9 greatly increases the range and lethality of centerfire cartridges. Most handgun
10 cartridges are also now centerfire and these cartridges generally fire bullets much
11 larger than rimfire cartridges usually at velocities of between 800 and 1500FPS.
12 Generally, centerfire weapons fire higher caliber ammunition and/or fire it at higher
13 velocities. The AR-platform, in particular, is the civilian version of the military’s
14 select-fire M-16 and M-4 rifles, which are capable of fully automatic or burst firing.
15 Based on my familiarity with the firearms industry, AR-platform rifles and similar
16 semiautomatic rifles did not begin to sell in significant numbers until the late 2000s
17 and particularly after the 2012 shooting at Sandy Hook Elementary in Newtown,
18 CT.

19 12. The AR-platform is highly modular, enabling owners to customize
20 their rifles with a variety of interchangeable components. Some components of a
21 firearm are integral to its operation, such as a trigger mechanism or barrel, and the
22 firearm will not function properly without them. But as I discuss here, the
23 particular components identified in the AWCA, which qualify a weapon as an
24 “assault weapon” if it is equipped with them, are not integral to the basic operation
25 of any firearm and are not necessary to use a firearm effectively for self-defense or
26 sporting purposes, such as hunting.

27 13. **Pistol grip that protrudes conspicuously beneath the action of the**
28 **weapon.** Pistol grips beneath the action of a rifle or shotgun are not necessary to

1 operate those weapons as designed. A pistol grip is a feature incorporated into
2 some firearm stocks that allows the shooter to control and aim the rifle during
3 periods of rapid fire, such as situations encountered during military firefights.
4 Alternative stock designs that do not incorporate this feature are currently sold in
5 California, and prominent, widely referenced firearms authorities, such as
6 www.caligunner.com, assess those options and the function of these compliant
7 (non-pistol grip) rifles in this manner: “Everyone has a preference on what looks
8 the ‘best’ but the top picks below are *all great functioning options*.”¹⁴ As also
9 noted on that website, while “[s]ome people that are critical of the featureless
10 option complain of the aesthetics of the available options,” “the overall function of
11 the rifle is mostly maintained,” and “several companies continue to innovate and
12 provide new products that look decent and perform well considering the constraints
13 of the law.”¹⁵ While a pistol grip beneath the action of a rifle may be useful during
14 military operations because it helps the shooter stabilize the weapon and reduce
15 muzzle rise during rapid fire, a pistol grip is not necessary to operate a firearm
16 safely in lawful self-defense situations.

17 14. **Thumbhole stocks.** Thumbhole stocks have a hole in the stock that
18 allows the shooter to insert their thumb and mimic the effects of a pistol grip. A
19 thumbhole stock is not necessary to operate a shoulder weapon as designed. A
20 thumbhole stock functions in almost identical fashion to a pistol grip and assists the
21 shooter in rifle control during periods of rapid fire. Again, the current non-
22 thumbhole and California compliant designs are advertised and sold as functioning
23 options for proper use of AR15s and their variants.

24
25
26 ¹⁴ <https://caligunner.com/california-compliant-featureless-rifle/> (emphasis
27 added) (last visited Dec. 30, 2022). A true and correct copy of this caligunner.com
28 webpage is attached as Exhibit A.

¹⁵ Ex. A.

1 15. **Folding or telescoping stock.** The stock of a rifle or shotgun is the
2 part a firearm that allows it to be held at the shoulder for firing. A folding or
3 telescoping stock can be collapsed to shorten the length of the rifle (or extended to
4 extend its length). A rifle or shotgun does not need an adjustable stock to operate
5 as designed and can be equipped with fixed-length stocks instead. Original rifles
6 on which the current existing and newly manufactured AR-15s are based and that
7 were accepted by hundreds of thousands of military officers as their weapon of
8 choice for decades, did not incorporate a folding stock and no credible firearms
9 authority claims that those firearms did not function properly. Further, there are
10 still non-folding stock options available today and all are sold and advertised as
11 fully functioning options for semiautomatic rifles.

12 16. **Grenade or flare launcher.** A grenade and flare launcher is not
13 necessary to operate a firearm as designed. These features are used on military
14 battlefields in which mass casualties or illuminating a battlefield are desirable but
15 have no relevance to civilian self-defense use.

16 17. **Flash suppressor.** A flash suppressor is a device that is attached to
17 the muzzle of a firearm and reduces or redirects the flash when shooting. A flash
18 suppressor is not necessary to operate a firearm as designed. This feature is affixed
19 to military rifles to redirect the light (muzzle flash) generated from the burning of
20 gases while firing which reduces the prevalence of “night blindness” that can
21 develop during low-light firefights. A flash suppressor also disguises the origin of
22 fire and avoid detection by enemy forces but has marginal benefit in civilian self-
23 defense situations, even in low-light conditions. It is widely accepted that the most
24 effective self-defense guns are handguns and home-defense shotguns. Like the AR-
25 15 (and similar rifles), these guns also produce muzzle flash and yet almost none
26 incorporate or require a “flash suppressor” device in order to operate effectively.

27 18. **Forward pistol grip.** A forward pistol grip on a rifle, pistol, or
28 shotgun enables a shooter to stabilize the weapon with the non-trigger hand during

1 fire, and is not necessary to operate any firearm as designed. As evidence, most
2 AR-15s sold today—including the best-selling rifles such as the Smith and Wesson
3 M&P15, which is generally accepted as the best-selling AR-15 in the United
4 States—do not incorporate a forward pistol grip, and I am not aware of any credible
5 firearms authority that states or teaches that these rifles do not function as designed.

6 **19. Fixed magazine with the capacity to accept more than 10 rounds.**

7 A fixed magazine capable of holding more than 10 rounds of ammunition is not
8 necessary to operate any firearm as designed. As explained below in connection
9 with detachable magazines, all firearms are capable of functioning with magazines
10 capable of holding fewer than 10 rounds, including magazines that were originally
11 capable of holding more than 10 rounds but have been permanently modified to
12 hold 10 rounds or less. A fixed magazine of 10 rounds or more is generally a
13 “work-around” to avoid the regulations on detachable magazines, but the same
14 functional realities apply to both detachable and fixed magazines.

15 **20. Detachable magazines.** Detachable magazines enable a shooter to
16 replace an empty or depleted magazine with a fresh magazine to resume firing.
17 While semi-automatic rifles like the AR-15 are not generally considered to be good
18 choices for self-defense situations, a rifle that lacks a fixed magazine, even when
19 retrofitted with a “magazine lock” or “bullet button” that requires the use of a tool
20 (or even a spare round) to release a spent magazine, will function as designed and
21 can be reloaded after firing. Detachable magazines may hold more than 10 rounds
22 of ammunition, which California law defines as “large-capacity magazines.”¹⁶
23 Despite the recent popularization of large-capacity magazines, it is important to
24 note that I am not aware of a single existing firearm that requires a large-capacity
25 magazine to function as designed. By this I mean that all firearms that can accept a
26 large-capacity magazine can also accept a magazine that holds 10 or fewer rounds

27
28 ¹⁶ Cal. Penal Code § 16740.

1 and function precisely as intended. This is true even of AR-platform rifles.
2 Although many AR-platform rifles are sold with a 30 round magazine, the
3 manufacturers all offer the optional purchase of 10 round of even lower capacity
4 magazines. There are many pistols (such at the very popular Model 1911—which
5 was the accepted sidearm of the U.S. Military for decades and is still one of the
6 most widely sold guns in the United States) that are built for magazines of eight
7 rounds or less. While larger 10-plus round magazines exist for the 1911 and other
8 similar pistols, a smaller magazine (standard seven or eight round) is considered
9 preferable by almost all consumers because the physical size/profile of the shorter
10 magazine is easier to carry, shoot and conceal. Still today the 1911 and other
11 similar guns which are built to function with sub-10 round magazines are built by
12 many gun companies (Smith and Wesson, Ruger, Kimber, Springfield, Rock Island,
13 Dan Wesson, and many other companies build and sell these 1911 pistols) and they
14 are sold in high volumes by most retailers in the United States. These guns are still
15 considered extremely effective self-defense firearms by many of the leading
16 firearms trainers in the country.

17 21. **Overall length of less than 30 inches.** A firearm does not need to be
18 less than 30 inches in length to operate as designed. There is a long-accepted
19 history of regulating “short barreled rifles” under the National Firearms Act (NFA),
20 which was implemented due to criminal actions resulting from concealing and then
21 deploying “short barreled rifles” in acts of surprise mass murder. Generally, there
22 are only two ways to reduce the length of an AR-15 platform firearm and those are
23 the barrel length (long-regulated by the NFA) and stock (collapsible or folding
24 designs were not yet available in 1934 when the NFA was enacted). In other
25 words, the AWCA’s regulations on collapsible and folding stocks and short barrels
26 are merely addressing the same and historically accepted regulation on rifle length
27 as the NFA.
28

EXHIBIT A



2021 Featureless AR-15 Rifles: All You Need to Know!

In [CA Law \(https://CaliGunner.com/category/ca-law/\)](https://CaliGunner.com/category/ca-law/), [Firearms \(https://CaliGunner.com/category/ca-law/firearms/\)](https://CaliGunner.com/category/ca-law/firearms/),
[Guide \(https://CaliGunner.com/category/guide/\)](https://CaliGunner.com/category/guide/), by Jim /

.().

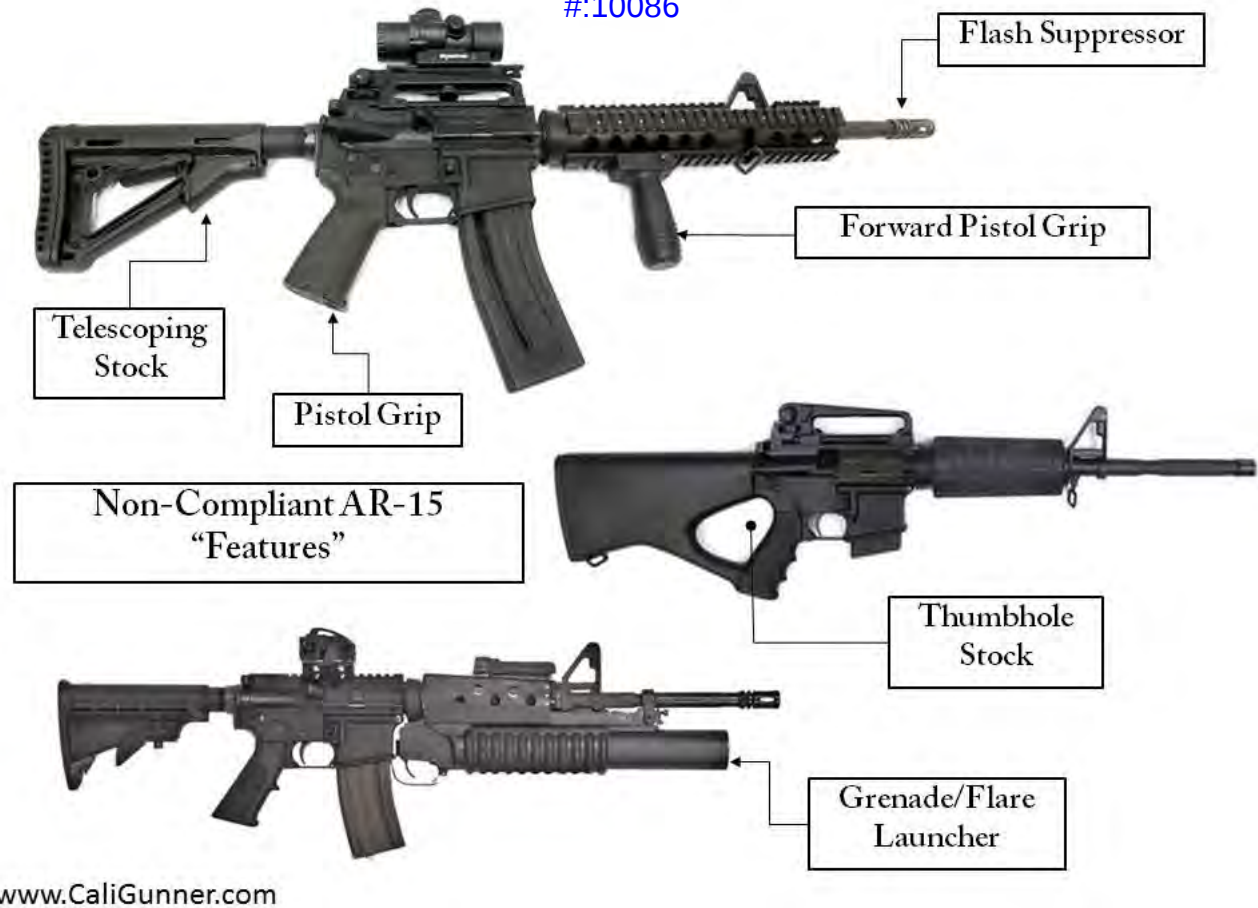
What is a Featureless Rifle?

A Featureless Rifle is the term used to describe a semi-automatic rifle that **does not** have any of the following:

1. A pistol grip that protrudes conspicuously beneath the action of the weapon
2. A thumbhole stock
3. A folding or telescoping stock
4. A grenade launcher or flare launcher
5. A flash suppressor
6. A forward pistol grip

What do Rifles with Features Look Like?

The figure below labels the features a normal AR-15 has that gun owners in free states typically have (minus the grenade launcher).



Disclaimer: I'm not a lawyer, this is meant to be helpful information not legal advice.


So even if you have JUST ONE of these features on your semi-automatic centerfire rifle you own what California considers to be an "assault weapon" unless your magazine is fixed. The only way for Californians to possess these features legally on a semi-automatic centerfire rifle is to either have A) the weapon registered as an "assault weapon" or B) have a fixed magazine which we will discuss later.

Can I Still Register My Rifle as an Assault Weapon?

Nope. The option to register a rifle as an "assault weapon" in California only applied to guns that were built or bought before 2017, you then had until July 1 2018 to register with the DOJ (<https://cfars.doj.ca.gov/login.do>). So again, if you are new to the AR game you have the choice of either fixing the magazine with some type of magazine lock or going featureless.

CALIFORNIA CENTERFIRE SEMI-AUTO RIFLE IDENTIFICATION

START



Has the centerfire rifle been properly registered as an assault weapon or a .50 BMG in California?

YES → California registered assault weapon or .50 BMG rifle. PC § 30655

NO → Is the rifle an AR or AK type?

YES → Is the rifle in Appendix B or C? **YES** → Violates PC § 30510(a)

NO → Is the barrel less than 16 inches long? **YES** → Violates PC § 17170

NO → Is the rifle listed in Appendix A? **YES** → Violates PC § 30510(a)

NO → Is the rifle chambered in .50 BMG? **YES** → Violates PC § 30600

NO → Is the rifle's overall length less than 30 inches? If less than 30 inches, can the rifle be fired in the shortest configuration? **YES** → Violates PC § 30515(a)(3)

NO → Does the rifle have a fixed magazine? **YES** → NOTE: Magazine locks (Bullet Button, MAG-LOCK, Prince50, Raddlock) and similar devices do not fulfill the requirement of a fixed magazine.

NO → NOTE: Products such as MonsterMan Grips and the Thordsen FR515 stock do not meet the criteria of a pistol grip.

Does the rifle have any of these features: Pistol Grip, Forward Pistol Grip, Flash Suppressor, Folding/Telescoping Stock, Thumbhole Stock, Grenade/Flare Launcher? **YES** → Violates PC § 30515(a)(1)

NO → Does the magazine hold more than 10 rounds? **YES** → Violates PC § 32310(c) Misdemeanor to possess high-capacity magazine.

NO → FIREARM NOT CLASSIFIED AS AW PC § 30515

NOTE: Active Duty Military: Personnel stationed in California may apply for an "Assault Weapon Permit" for personally owned AW(s) "After the deadlines".

ILLEGAL AND UNREGISTERED ASSAULT WEAPON OR .50 BMG

Violates PC § 30515(a)(2)

ILLEGAL AND UNREGISTERED ASSAULT WEAPON OR .50 BMG

Does the fixed magazine hold more than 10 rounds?

YES → Violates PC § 30515(a)(2)

NO → FIREARM NOT CLASSIFIED AS AW PC § 30515

Roberti-Roos Assault Weapons Control Act of 1989
The registration deadline for assault weapons listed in the Roberti-Roos ban was March 31, 1992.

Senate Bill 23 (SB-23)
The registration deadline for assault weapons as defined by characteristics in SB-23 was December 31, 2000.

Senate Bill 880 (SB-880)
The registration deadline for assault weapons as defined by PC § 30515 that were legally owned prior to January 1st, 2017 is January 01, 2018.

BMG Restrictions and Registration
The registration deadline for ".50 BMG rifles" was April 30, 2006.

REVISED 03/2019

The following definitions apply to terms used in the identification of assault weapons pursuant to Penal Code section 30515:

- Def. Exhibit 50
Page 001696

- Case 8:17-cv-00746-JLS-JDE Document 151-4 Filed 05/26/23 Page 17 of 31 Page ID #:10088
- (e) "Thumbhole stock" means a stock with a hole that allows the thumb of the trigger hand to penetrate into or through the stock while firing.

Legal Barrel and Overall Rifle Lengths

California requires the following minimum lengths for your rifle:

- **16" minimum barrel length**, pinned and welded muzzle devices count for length (meaning you could have a 14.5" barrel as long as you have a permanently attached muzzle device making the overall like 16" or more)
- **30" minimum overall length for centerfire-semi-automatics** (such as AR-15's chambered in .223/5.56 NATO), measured with stock in the shorted position the rifle can still fire in
- **26" for rimfires and non-semi centerfires**; measured with stock in the shorted position the rifle can still fire in

So this is helpful, but maybe you want it spelled out a little more, I got it. Let's keep going.

To have a featureless rifle you must, well, remove the features! Let's address each item and discuss the options.

Featureless Grip and Stock Options

If you have become accustomed to shooting an AR-15 with features in the past, **the grip and stock configuration will be the most drastic change when moving to a featureless rifle.** With that said, after you spend plenty of time on the range you will eventually adapt. Everyone has a preference on what looks the "best" but the top picks below are all great functioning options.

The Thordsen FRS Stock (<http://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2F rifle-parts%2F stock-parts%2F buttstocks%2F ar-15-frs-15-stock-assy-quick-detach-carbine-length-prod87747.aspx>) is an incredibly popular choice for many California shooters. What you are essentially getting with a Thordsen is a conventional rifle stock for your AR-15. The main advantage over most other featureless options is ergonomics. It allows for a much more natural feel since your thumb can wrap around the grip of the firearm which provides more comfort and a sense of control.



<https://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2F rifle-parts%2F stock-parts%2F buttstocks%2F ar-15-frs-15-stock-assy-quick-detach-carbine-length-prod87747.aspx>

The Hera CQR CA Compliant Stock (<https://amzn.to/2OWuscA>) is another option that many feel is more aesthetic than the Thordsen, of course this is subjective. There is a non-compliant version with a thumbhole so be sure to buy the compliant version as shown below. One thing I really like is that it has spacers available to adjust the length of pull.



<https://amzn.to/2OWuscA>

HERA CQR CALIFORNIA COMPLIANT STOCK
([HTTPS://AMZN.TO/2OWUSCA](https://amzn.to/2OWuscA))

Another option is to use a **fin grip** (<http://brownells.dts2xn.net/Q5dQY>) like the one below. They are a cheap option that appears to appease the powers that be in Sacramento. Once installed, your thumb cannot wrap around the grip making it good to go.



[.\(brownells.dts2xn.net/Q5dQY\).](http://brownells.dts2xn.net/Q5dQY)

[AR-15 MONSTERMAN GRIP \(HTTP://BROWNELLS.DTS2XN.NET/Q5DQY\)](http://brownells.dts2xn.net/Q5dQY)

Using a “fin grip” and fixed stock is the cheapest way to convert your AR-15 into a featureless rifle (with compliant muzzle device of course).



CALIFORNIA COMPLIANT FEATURELESS AR-15 WITH MONSTERMAN GRIP

If you do go with the grip option, be sure to select a non-folding or non-telescoping stock. Many people will take an adjustable stock and permanently pin it while others prefer to just buy a fixed stock like the ones below.



([https://brownells.7eer.net/c/1200207/60594/1625?
u=https%3A%2F%2Fwww.brownells.com%2F rifle-
parts%2F stock-
parts%2F buttstocks%2F ar-15-
moe-stock-fixed-mil-spec-
prod56792.aspx](https://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2F rifle-parts%2F stock-parts%2F buttstocks%2F ar-15-moe-stock-fixed-mil-spec-prod56792.aspx)).

MAGPUL FIXED STOCK - SEE THE LATEST PRICE AT
BROWNELLS
([https://brownells.7eer.net/c/1200207/60594/1625?
u=https%3A%2F%2Fwww.brownells.com%2F rifle-
parts%2F stock-parts%2F buttstocks%2F ar-15-
moe-stock-fixed-mil-spec-prod56792.aspx](https://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2F rifle-parts%2F stock-parts%2F buttstocks%2F ar-15-moe-stock-fixed-mil-spec-prod56792.aspx))



([https://brownells.7eer.net/c/1200207/60594/1625?
u=https%3A%2F%2Fwww.brownells.com%2F rifle-
parts%2F stock-
parts%2F buttstocks%2F ar-15-
sabertube-stock-fixed-mil-spec-
prod79482.aspx](https://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2F rifle-parts%2F stock-parts%2F buttstocks%2F ar-15-sabertube-stock-fixed-mil-spec-prod79482.aspx)).

AR-15 SABERTUBE STOCK
(<https://brownells.7eer.net/eb99r>)



(<https://brownells.7eer.net/eb99r>).

DOUBLESTAR ACE ULTRALITE STOCK, CHECK PRICE AT
BROWNELLS (<https://brownells.7eer.net/eb99r>)

See all AR-15 Fixed Stocks (<https://brownells.dts2xn.net/5V032>)

Top Compliant Muzzle Brakes



Flash suppressor means any device designed, intended, or that functions to perceptibly reduce or redirect muzzle flash from the shooter's field of vision. On the other hand a "muzzle brake", also know as a compensator, is a device connected to the muzzle of a firearm that redirects propellant gases to counter recoil and unwanted rising of the barrel during rapid fire.

For this reason, muzzle brakes are a popular choice for gun owners even where flash hidere are permissible. Some of my favorite muzzle brakes include:



([http://brownells.7eer.net/c/1200207/60594/1625?
u=https%3A%2F%2Fwww.brownells.com%2F rifle-
parts%2F muzzle-
devices%2F compensators-amp-
muzzle-brakes%2Far-15-gamma-
556-ex-muzzle-brake-5-56-
prod105087.aspx](http://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2F rifle-parts%2F muzzle-devices%2F compensators-amp-muzzle-brakes%2Far-15-gamma-556-ex-muzzle-brake-5-56-prod105087.aspx)).

GAMMA VG6 - SEE MORE DETAILS
([HTTP://BROWNELLS.7EER.NET/C/1200207/60594/1625?
U=HTTPS%3A%2F%2FWWW.BROWNELLS.COM%2F RIFLE-
PARTS%2F MUZZLE-DEVICES%2F COMPENSATORS-AMP-
MUZZLE-BRAKES%2Far-15-GAMMA-556-EX-MUZZLE-
BRAKE-5-56-PROD105087.ASPX](http://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2F rifle-parts%2F muzzle-devices%2F compensators-amp-muzzle-brakes%2Far-15-gamma-556-ex-muzzle-brake-5-56-prod105087.aspx))



(<https://www.brownells.com/rifle-parts/muzzle-devices/compensators-and-muzzle-brakes/miculek-compensator-22-caliber-1-2-28-steel-black-sku231000038-5573-12990.aspx?rrec=true>)

MICULEK COMPENSATOR - SEE MORE DETAILS
(<https://www.brownells.com/rifle-parts/muzzle-devices/compensators-and-muzzle-brakes/miculek-compensator-22-caliber-1-2-28-steel-black-sku231000038-5573-12990.aspx?rrec=true>)

See all Muzzle Brakes

(<https://brownells.dts2xn.net/LQdGY>)

Is Going Featureless the Only Way to Be Compliant?

No! There is another option that allows you to keep your features (pistol grip, folding/telescoping stock, forward grip and flash suppressor) while still being completely legal. This is the fixed or magazine lock option.

Fixed or Locked Magazine Option

This option allows the use of features on your AR-15 by fixing or locking the **10 round magazine (or less)** in your rifle while the lower is attached to the upper receiver. This is often done with a device like the Juggernaut Tactical Hellfighter Kit available at Brownells. (<https://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2Frifle-parts%2Freceiver-parts%2Ftakedown-parts%2Fpins%2Far-15-hellfighter-california-compliant-mod-kit-black-prod117045.aspx>) With a device like this you can use all the “evil features” described at the beginning of the article and still be legal. This is a great option for those that can’t get over the looks of a featureless rifle.



(<https://amzn.to/3jotQv9>).

Important Note: As mentioned above, the fixed or locked magazine option requires a 10 round magazine (or less). The magazine laws in California have been in flux (<https://CaliGunner.com/high-capacity-magazines/>), allowing opportunities for CA citizen to legally purchase standard capacity magazines (also improperly known as “large capacity magazines”). **Fixing a legally acquired 30 round magazine to your rifle with features is illegal, don’t do it.**

However, using legally acquired 30 round magazines in your featureless rifle is allowed. With that said, you still might get hassled for doing so, the choice is yours.



<https://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2F rifle-parts%2Freceiver-parts%2Ftakedown-parts%2Fpins%2Far-15-hellfighter-california-compliant-mod-kit-black-prod117045.aspx>

Below is a demonstration on the use of a Juggernaut Tactical AR-15 Hellfighter California-Compliant Mod Kit (<https://brownells.7eer.net/c/1200207/60594/1625?u=https%3A%2F%2Fwww.brownells.com%2F rifle-parts%2Freceiver-parts%2Ftakedown-parts%2Fpins%2Far-15-hellfighter-california-compliant-mod-kit-black-prod117045.aspx>).

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#11000

See also The Complete Guide to the Hellfighter Mod Kit (<https://CaliGunner.com/juggernaut-tactical-hellfighter-complete-guide/>)

DIY AR-15 Fixed Magazine

There is a way to inexpensively fix a ten round magazine in your AR-15 allowing you to keep your features. This configuration requires a loader like the BF-10 seen here (<https://CaliGunner.com/bear-flag-defense-bf-10-loader-review/>). For the fixed install you will need the following tools:

- Drill (<https://amzn.to/2yRGQXL>).
- 6-32 Drill and Tap Set (<https://amzn.to/2KjSH6g>).
- 3/8" Set Screw (<https://amzn.to/2Kx6sL1>).

Step 1: Remove bolt catch and magazine catch from your lower receiver (for lower receiver assembly/disassembly check my article here (<https://CaliGunner.com/ar-15-lower-receiver-assembly/>)).

Step 2: Drill hole for 6-32 tap through the top of your receiver at the end of the bolt catch groove like shown below.



Step 4: Reinstall magazine catch then install your 10 round magazine you want to fix in place.

Step 5: Thread 6-32 set screw (3/8" long) into hole so that it is tight against the magazine catch.



Step 6: Reinstall bolt catch. That's it!

Just make sure you have the set screw tight so that the magazine won't release even with lots of force. The nice thing about this option is that it is easily removable if traveling to other states. Again for this option, you will want a loader like the BF-10 (<https://CaliGunner.com/bear-flag-defense-bf-10-loader-review/>).

Helpful Additions to Featureless Rifles

Several of the grip and stock options above keep the thumb of your trigger hand in an unusual position and can make it more difficult to select the safety. There two items I recommend to address these issues. The first is a thumb rest made by Juggernaut Tactical. It replaces the rear takedown pin and provides a comfortable position to rest your thumb.



The second item we recommend is an ambidextrous safety. If you're right-handed using a featureless rifle your trigger hand will not be able to select the safety; you'll have to use the opposite hand. Once you install an ambidextrous-safety you can easily select the safety with your trigger hand.



Advantages and Disadvantages of Going Featureless

From a practical perspective, the featureless rifle remains completely usable in the sense that you can reload the rifle in a conventional and timely manner without the need of any tools or disassembly of the lower receiver from the upper receiver. From this perspective using a featureless rifle is a better option for self-defense.

Some people that are critical of the featureless option complain of the aesthetics of the available options. While that may be true for some, the overall function of the rifle is mostly maintained. Another possible downside of the featureless set up is that the authorities could eventually change the laws once more forcing law-abiding citizens to

Conclusion

For the time being, going featureless seems to be the best legal configuration when keeping the functionality of the rifle in mind. We are already seeing several companies continue to innovate and provide new products that look decent and perform well considering the constraints of the law.

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EXHIBIT 51

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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 **STEVEN RUPP; STEVEN**
16 **DEMBER; CHERYL JOHNSON;**
17 **MICHAEL JONES;**
18 **CHRISTOPHER SEIFERT;**
19 **ALFONSO VALENCIA; TROY**
20 **WILLIS; and CALIFORNIA RIFLE**
21 **& PISTOL ASSOCIATION,**
22 **INCORPORATED,**

23 Plaintiffs,

24 v.

25 **ROB BONTA, in his official capacity**
26 **as Attorney General of the State of**
27 **California; and DOES 1-10,**

28 Defendants.

8:17-cv-00746-JLS-JDE

**CORRECTED SUPPLEMENTAL
SUR-REBUTTAL EXPERT
REPORT AND DECLARATION
OF RYAN BUSSE**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the Attorney General of the State of California. Pursuant to Federal Rule of Civil Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as the defendant in this case.

**CORRECTED SUPPLEMENTAL SUR-REBUTTAL EXPERT REPORT
AND 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). I previously submitted a supplemental expert report and declaration in the above-captioned case dated January 6, 2023. My professional qualifications are set forth in that supplemental expert report and declaration.²

2. I have been asked by the Office of the Attorney General of the California Department of Justice to prepare a supplemental sur-rebuttal expert report and declaration responding to the February 3, 2023 Rebuttal Report of Mark Hanish, and in further support of the opinions expressed in my January 6 supplemental expert report and declaration. This supplemental sur-rebuttal expert report and declaration is based on my own personal knowledge and experience, and, if I am called as a witness, I could and would testify competently to the truth of the matters discussed in it.

A. MAGAZINES AND CAPACITY: MR. HANISH'S INACCURATE CLAIMS REGARDING THE DIFFICULTY OF OBTAINING NON-LCM³ MAGAZINES, AND WHETHER OR NOT LCMS ARE NECESSARY FOR NORMAL FUNCTION OF FIREARMS AND SELF-DEFENSE.

3. 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

² Since that supplemental expert report and declaration, I have submitted expert declarations in *Harrel v. Raoul*, Case No. 23-141-SPM in the United States District Court for the Southern District of Illinois and *National Association for Gun Rights v. Lopez*, Case No. 1:22cv404 in the United States District Court for the District of Hawaii.

³ "LCM" refers to large-capacity magazines, which are ammunition magazines capable of holding more than 10 rounds of ammunition.

1 are often legally mandated for hunting in many states. It is my experience that even
2 if large capacity magazines are available or sold with firearms today, all firearms
3 companies offer lower capacity options (often 10 round versions to comply with
4 laws in various states such as California).

5 4. Despite the recent proliferation of LCMs, it is important to note that
6 there is no known firearm that requires an LCM to function as designed. In other
7 words, popularity does not equal necessity. All firearms that can accept an LCM
8 can also accept a magazine that holds fewer rounds and still function precisely as
9 intended. This is true even of AR- and AK-platform rifles. Although many of these
10 rifles are sold with a 30 round magazine, the manufacturers all offer the optional
11 purchase of 10 round or even lower-capacity magazines.

12 5. The gas tank in a car provides a good analogy here. Like a firearm
13 magazine, the gas tank is a holding device for what is in essence the “fuel.” For a
14 car with a 20 gallon tank, the car will function as designed on the first 10 gallons
15 just as it will the last 10 gallons. No one would argue that the car cannot function if
16 the tank is only half full or that the car will only run as designed with a full 20
17 gallon tank. The gas tank could even be shrunk or reduced to a maximum of 10
18 gallons and the car would certainly function as designed. The same is true of
19 firearms and magazine capacity, and there is no known instance of any firearms
20 manufacturer stating that their firearm is unreliable or will not function similarly
21 without an LCM.

22 6. There is no difficulty in obtaining lower-capacity or standard-capacity
23 magazines for virtually any firearm today. These are often sold by manufacturers,
24 retailers and online sellers as normal accessories and may be referred to as
25 “compliant magazines.” I am not aware of a single case where those magazines
26 have been advertised as inadequate or ineffective, and I am not aware of any other
27 expert or industry advertisement that claims these magazines render a gun defective
28 or unable to function in self-defense situations.

1 7. This is a marketing description of one magazine section from noted
2 industry reseller Righttobear.com, which sells dozens of options for hundreds of
3 guns and is typical of others in the firearms industry: “Residents of a number of
4 states are forbidden by law to have large-capacity ammunition magazines that hold
5 more than 10 rounds, in some cases even 7 rounds. We carry a full inventory of
6 magazines designed to meet some state restrictions. Each of the AR 10-round
7 magazines we sell meet or exceed our high standards for any product we sell. All
8 are based on proven designs, with the simple restriction of only holding 10 rounds.
9 If you are in the market for a 10-round AR magazine, check out the selection we
10 offer here. You will find magazines from several manufacturers, designed to fit a
11 number of ammo calibers. These AR 10-rd magazines allow you to customize your
12 rifle while helping to meet some state restrictions. You can get 10-round mags that
13 won't interfere with the other accessories on your rifle. Find the right 10-round AR
14 mag for your needs, and get it on order today!”⁴

15 8. There are multiple respected industry reviews of compliant (non-
16 LCM) magazines that not only highlight their known reliability but also point out
17 important functional advantages of smaller magazines. This is one such review
18 section of various magazines by the popular PewPew Tactical website, in which
19 one of the most popular 10 round AR-15 magazines is discussed: “The 10-Round
20 PMAG M3 is an option that won’t let you down! But the dedicated lower-capacity
21 magazines are also nice because they are shorter—this makes prone or bench
22 shooting easier for most people.”⁵

23 9. There are many pistols (like the 1911, which was the accepted
24 defensive sidearm of the U.S. Military for decades and is still one of the most
25

26 ⁴ Offerings of compliant magazines from reseller;
27 <https://www.righttobear.com/ar-10-round-magazines/> (last visited Feb. 10, 2023).

28 ⁵ Review of various magazines from PewPew Tactical:
<https://www.pewpewtactical.com/best-magazines-ar-15/> (last viewed Feb. 10
2023).

1 widely owned self-defense guns in the United States) that are sold with magazines
2 of eight rounds or less. Other widely popular guns such as the Sig P938 and P238
3 are also designed to function with seven or eight round magazines and these guns
4 have been widely acclaimed by dozens of notable firearms industry experts as
5 among the most effective concealed carry/self-defense firearms on the market.⁶
6 While larger 10-plus round magazines exist for these pistols, a smaller magazine
7 (standard seven or eight round) is considered preferable by almost all consumers
8 because the physical size/profile of the shorter magazine is easier to carry, shoot
9 and conceal.

10 10. Still today, guns such as the 1911 and Sig938/238 are built to function
11 with sub-10 round magazines. With regards to the 1911 design, it is so respected
12 that direct copies are currently reproduced by many gun companies (Smith and
13 Wesson, Ruger, Kimber, Springfield, Rock Island, Dan Wesson, and many others)
14 and they are sold in high volumes by most retailers in the United States. These guns
15 are still considered extremely effective self-defense firearms by many of the leading
16 firearms trainers in the country and are widely labeled as an “expert’s gun.”

17 11. While there is a competitive market trend towards increased handgun
18 capacity, there are also many more recently introduced handgun models that utilize
19 or offer 10 round magazines and are considered excellent self-defense options by
20 notable industry experts and journalists. In other words, the industry itself openly
21 advertises that 10 rounds is more than enough for effective self-defense. The
22 following is a review for a 10 round version of one of the best-selling handguns in
23 the industry offered by notable industry website TheArmoryLife.com: “10 rounds
24 of 9mm in a micro-compact is still a formidable defense. Springfield Armory
25 recently announced the addition of a 10-round version of the Hellcat pistol for

26 ⁶ USA Carry review of Sig 938 9mm handgun:
27 <https://www.usacarry.com/sig-sauer-p938-subcompact-9mm-review/> (last visited
28 Jan. 10, 2023).

1 shooters in states that require restricted magazine capacities. The new 10-round
2 variant of the Hellcat offers a great self-defense option for owners that live in areas
3 with these restrictions.”⁷

4 12. Revolvers, which have 5 or 6 round capacities, are also considered to
5 be extremely effective self-defense guns. Respected industry experts have long
6 openly agreed on this point. Many of these experts often point out that self-defense
7 situations almost always involve very few shots fired. The following is an excerpt
8 from a 2015 NRA American Rifleman article on the desirability of revolvers for
9 self-defense in which the issue of capacity in defensive situations is discussed: “The
10 importance of this difference in ammunition capacity is debatable. Some self-
11 defense gurus support the idea that more is better. Others point out that most
12 civilian situations happen so quickly, with only a few rounds fired (an average of
13 three), that handgun capacity is a moot point.”⁸

14 13. Generally speaking, pump action and semi-automatic shotguns utilize
15 a tubular magazine. However there are now dozens of “tactical” shotgun designs⁹
16 that accept detachable magazines similar to AR-15 designs, and some are large
17 capacity. There are also some shotguns that are generally designed to be similar to
18 AR-15s but chambered in a shotgun cartridge (usually 12 gauge). With regards to
19 these shotguns, none of the features set forth in § 30515(a) are necessary for
20 effective self-defense. One of the most effective self-defense guns of all time (the
21 Remington 870 pump shotgun) has always been sold standard with no tactical
22 features or high capacity magazine and has always been considered a top self-
23 defense choice.

24 ⁷ Review of Springfield Hellcat 10 round version:
25 <https://www.thearmorylife.com/going-10-rounds-with-the-springfield-hellcat/> (last
viewed Feb. 8, 2023).

26 ⁸ NRA American Rifleman article on revolvers and capacity in self-defense:
27 <https://www.americanrifleman.org/content/why-choose-a-wheelgun/> (last viewed
Feb. 1, 2023)

28 ⁹Leading retailer tactical shotgun options: <https://www.impactguns.com/ar-15-shotguns/> (last visited Jan. 29, 2023).

14. When reviewing the Remington 870 as a self-defense firearm, the highly respected and notable industry publication Gun Digest said this of the Model 870 Home Defense Model: “As plain and simple as it gets when it comes to Remington 870 tactical shotguns, the Home Defense is a knock-out bargain. There are cheaper 870s available, but none set up to excel like this one. In particular, its 6-round tubular magazine—two more than standard 870 models—gives you more than enough firepower to handle anything outside a Hunnish siege.”¹⁰ This is a photograph from that article of the gun described. (Note that the firearms industry draws the distinction between self-defense situations and a “Hunnish siege.”) It is important to note that according to Gun Digest, the gun which “excels” at self-defense does not include any of the assault weapon features described in my earlier declaration.

870 Home Defense



15. In addition, the industry treats magazines as accessories, not as firearms. Evidence of this is found in the sales practices of many retailers like Palmetto State Armory (one of the largest firearms retailers in the United States) which clearly list magazines in the “general accessory” section.¹¹

¹⁰ Gun Digest Review of Self-Defense Shotguns: <https://gundigest.com/gun-reviews/shotguns/top-four-remington-870-tactical-shotgun-options> (last viewed Feb. 18, 2023).

¹¹ General accessories offered by Palmetto State Armory: <https://palmettostatearmory.com/accessories.html> (last viewed Feb. 1, 2023).

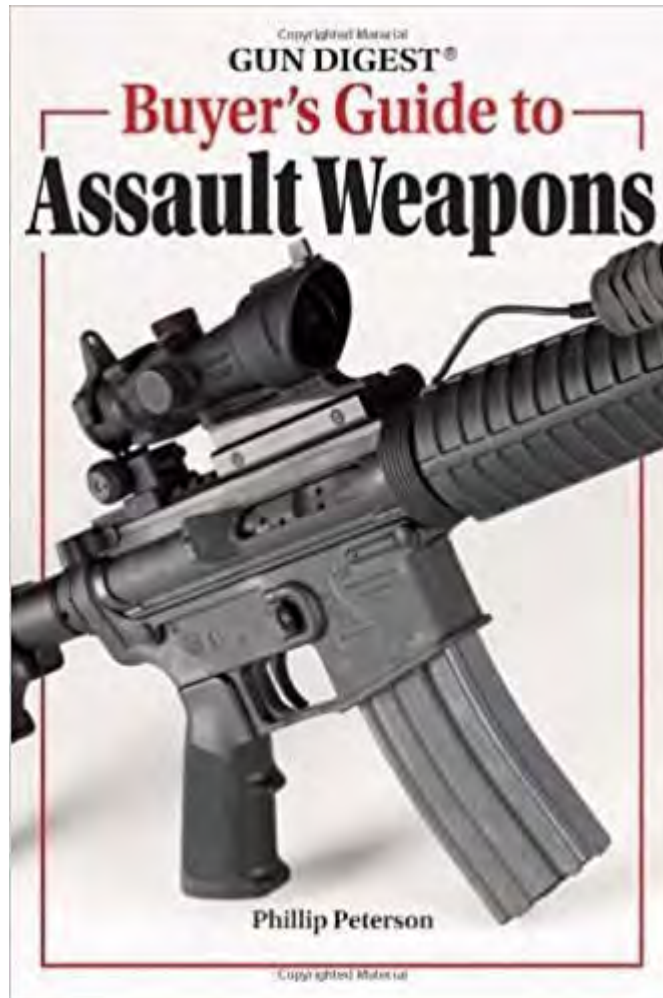
16. The degree to which a magazine is viewed as an accessory by firearms retailers is reinforced by the fact that when manufacturers add additional magazines to the firearm at the time of sale as an incentive to encourage consumers to purchase the gun, the practice often upsets the retailers who view 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:



B. HISTORY AND MARKETING OF AR-15s AND SIMILAR ASSAULT WEAPONS: MR. HANISH'S INACCURATE ASSERTIONS REGARDING SALES AND MARKETING OF AR-15s, AK-47s AND ASSAULT WEAPONS, AND THEIR NECESSITY IN SELF-DEFENSE.

17. All AR-15 firearms 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 offensive or "assault" rifle. The AR-15 incorporated features that satisfied 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 widely respected and

1 commonly accepted in the industry as a prominent authority and advertising
2 publication:¹²



19 18. The small size of the .223 or 5.56 cartridge was particularly important
20 for the military selection because it allowed soldiers to greatly increase capacity in
21 their rifles and magazines. In other words, it is the large capacity that the military
22 saw as most important for offensive military operations. The bullets from these
23 smaller and faster cartridges are very deadly at short and medium ranges and the
24 bullet speed they produce can inflict severe damage with minimal recoil impulse
25 back to the shooter. These cartridge characteristics were selected because they

27 ¹² One of many listings for archived issues of Gun Digest for sale from
28 various resellers: <https://www.amazon.com/Digest-Book-Assault-Weapons-Fifth/dp/087341778X> (last visited Jan. 30, 2023).

1 result in a rifle that can be high-capacity, accept loaded magazines which are easy
2 to transport, and also be very easy to fire repeatedly while staying on target. The
3 reasoning for the military decision on this chambering is summed up in this article
4 from *Business Insider*: “The smaller rounds weighed less, allowing troops to carry
5 more ammunition into the fight. They also created less recoil, making it easier to
6 level the weapon back onto the target between rounds and making automatic fire
7 easier to manage. Tests showed that troops equipped with smaller 5.56 mm rounds
8 could engage targets more efficiently and effectively than those firing larger,
9 heavier bullets.”¹³ This is why AR-15 and AK-47 platform weapons remain the
10 assault weapon of choice for military operations in short and medium range
11 scenarios where repeated, high volume and accurate offensive shooting is desired.

12 19. These same general attributes, especially the ability to accept LCMs,
13 are those which appear to be desired by many recent mass shooters in the United
14 States. AR-platform rifles were used in the recent shootings in Buffalo, New York,
15 Highland Park, Illinois and Uvalde, Texas where, according to law enforcement
16 officials quoted in a CBS news article, the shooter used an assault weapon and
17 LCMs to easily transport nearly 1700 rounds of ammunition to Robb Elementary
18 school. “A law enforcement source told CBS News that the amount of ammunition
19 that the suspect brought with him is more than what an average U.S. soldier would
20 go into basic combat with, apparently planning on a massive gun battle.”¹⁴

21 20. Military versions of the AR-15 are generally capable of “fully
22 automatic” and “burst” rates of fire. These automatic firing modes, which produce
23 multiple shots with one trigger pull, are generally used not to target and kill
24

25 ¹³ Story on background of AR-15 and chambering history
26 <https://www.businessinsider.com/why-did-us-military-switch-from-762mm-round-to-556mm-2019-9> (last visited on Jan. 27, 2023).

27 ¹⁴ CBS article on Uvalde Shooting: <https://www.cbsnews.com/news/uvalde-shooting-more-ammunition-than-us-soldiers-carry-rounds-into-combat/> (last
28 viewed Feb. 1, 2023).

1 individual combatants but rather to suppress enemy fire. An article from SOFREP,
2 (a respected digital outlet written and maintained by “former American and US
3 Coalition Military Veterans”) reinforces this truth with this statement: “In combat,
4 automatic weapons are more commonly employed as a means of suppressing
5 enemy movements than they are in actually killing the enemy.”¹⁵ Therefore, “semi-
6 automatic” mode is the mode that is most often deployed in battle to efficiently
7 target and kill because it allows targeting of specific human targets with repeated
8 accurate shots rather than inaccurate, indiscriminate “spray.” It is my experience
9 that respected Special Forces trainers therefore teach that “semi-auto” is the
10 preferred and most lethal setting in most wartime scenarios.

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

13 22. The original patent for the gas operating system central to the AR-15
14 being rapidly fired with minimal recoil expired in 1977,¹⁶ which subsequently
15 allowed the engineering prints for the AR-15 to be publicly available to all firearms
16 companies. From that point forward, there could have been a large-scale,
17 immediate, and legal proliferation of direct copies of these rifles and other high
18 capacity semi-automatic guns into the United States commercial market. But that
19 did not happen, at least not until nearly two decades later. In fact, when I first
20 started my work in the gun industry in the 1990s, assault weapons, including AR-
21 15s, were not commonly sold or marketed, and within the gun industry the
22 acceptance or promotion of this product category was thought to be irresponsible
23 and potentially dangerous.

24
25
26 ¹⁵ Article on full auto or semiautomatic from SOFREP
27 [https://sofrep.com/news/how-are-automatic-weapons-actually-used-by-militaries-](https://sofrep.com/news/how-are-automatic-weapons-actually-used-by-militaries-in-combat/)
28 [in-combat/](https://sofrep.com/news/how-are-automatic-weapons-actually-used-by-militaries-in-combat/) (last visited Jan 30 2023)

¹⁶ Gas Operated Bolt and Carrier System, U.S. Patent No. 2,951,424
(accessible at <https://patents.google.com/patent/US2951424A/en>).

23. This former self-imposed industry “regulation” was first publicly voiced by the revered founder of Ruger, which is now one of the largest companies in the industry. During a 1992 interview with Tom Brokaw, William B. Ruger stated what was then common industry consensus: “No honest man needs more than 10 rounds in any gun.” Ruger went on to state: “I never meant for simple civilians to have my 20 or 30 round magazines.”¹⁷ This was widely held industry opinion and evidence of its prevalence is born out in the commercial sales total of AR-15s and other similar guns. 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 total of about 787,000 units in the 30-year period 1964-1994.¹⁸ 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 LCMs, 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.

24. This voluntary prohibition also extended to the largest sporting goods retailers in the country, almost none of which would sell or display assault weapons

¹⁷ Article on Bill Ruger’s position on LCMs; <https://www.nhregister.com/connecticut/article/Magazine-limits-were-first-proposed-by-11435654.php> (last viewed Feb. 1, 2023).

¹⁸ 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).

1 or AR-15s or AK-47s in their stores until the mid-2000s. Individuals in the shooting
2 industry were asked not to bring such guns to industry events or promote them
3 publicly. The National Shooting Sports Foundation (NSSF), which administers the
4 main industry trade show (SHOT show), also severely restricted the display of
5 military and tactical gear or weapons in its own trade show. This remained true as
6 late as 2006. It was not until very recently that the gun industry began to push AR-
7 15s and other assault weapons, leading to their increased proliferation today. The
8 following table of data compiled by the NSSF, which brands itself as “The Firearm
9 Industry Trade Association,” clearly illustrates that sales of such guns (so-called
10 “modern sporting rifles,” AR-15s and AK-47s) has dramatically increased since
11 1990, despite the fact that no federal, and few state, restrictions on such guns
12 existed in 1990. (74,000 units in 1990 versus 2,798,000 in 2020):¹⁹

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¹⁹ https://www.nssf.org/wp-content/uploads/2022/07/EstMSR1990_2020.pdf
(last visited Jan. 12, 2023).

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

25. 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 (encouraged by the NSSF), facilitated a public re-branding of assault weapons 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 steadily “improved” in many functional areas that impact lethality of a military assault weapon, industry members, including me, were then strongly encouraged to stop using the term

1 “assault rifle” or even “tactical weapon” because those terms were thought a too-
2 transparent label that referenced offensive military assaults which would therefore
3 harm the public perception of such guns and decrease the sales of companies that
4 build them. Despite the fact that well into the 2000s, almost everyone in the
5 industry used the terms assault weapon and assault rifle, NSSF purposefully sought
6 to reframe the origin of this terminology and distance the firearms industry from it
7 with statements that are still on the NSSF marketing material and website yet today:
8 “If someone calls an AR-15 or other semi-automatic rifle an “assault weapon,” he
9 or she either supports banning these firearms or does not understand their function
10 and sporting use, or both. Please correct them. ‘Assault weapon’ is a political term
11 created by California anti-gun legislators to ban some semi-automatic rifles there in
12 the 1980s.”²⁰

13 26. During the late 2000s and continuing through today, there has been a
14 rapid increase in the number of companies that manufacture and market their own
15 versions of AR-15s and other similar assault weapons. This has resulted in a
16 transformation of the marketplace from only a few AR-15 manufacturers in 2000,
17 to several hundred AR-15/assault weapon companies today. The list of AR-15
18 manufacturers now includes small, medium, and the largest firearms companies in
19 the United States, all of whom are striving to obtain market share with derivatives
20 of what is effectively the same product. This reality has created a highly
21 competitive market resulting in thousands of “continuous improvements” in the
22 AR-15-style firearms sold to the general public as a way to encourage consumers to
23 buy one rifle over another. Over time, these improvements have generally been
24 incorporated on most rifles across the marketplace and therefore result in firearms
25 that are almost universally more accurate, more portable, and more specifically
26 tailored to produce lethal outcomes.

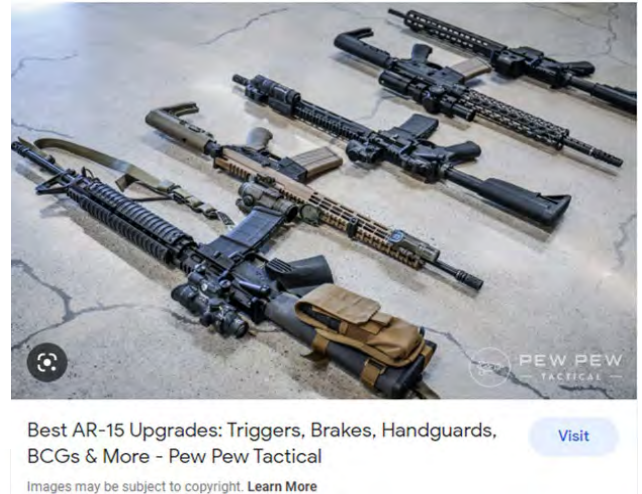
27 ²⁰ NSSF MSR marketing webpage <https://www.nssf.org/msr/> (last visited
28 Jan. 20, 2023).

1 27. Mirroring the trend in AR-15s, there has also been a notable increase
2 in the prevalence in the civilian marketplace of handguns designed to accept LCMs.
3 While it is generally true that larger capacity handguns have existed in the industry
4 for several decades, it is also true that until the mid-2000s there was little focus
5 upon them as a central source for industry product development and growth. The
6 shift to focus on these more tactical or offensive, higher capacity handguns has
7 resulted in a competitive trend that is accelerating. Where there were once relatively
8 few such guns or marketing efforts, now most of the largest firearms makers in the
9 United States offer several versions of handguns that can accept LCMs and each
10 year the increasing capacity of compatible magazines is used as a central
11 competitive marketing tool. Even Ruger, the company founded by Bill Ruger who
12 plainly stated “honest men did not need more than 10 rounds in any gun,” now touts
13 the 12+1 round capacity of its new Max9 pistol.²¹

14 28. The increase in the AR-15 market has also facilitated an increase in
15 accessory availability for the AR-15 and similar firearms (commonly referred to as
16 “furniture”). In addition to other accessories like flash suppressors and pistol grips
17 that are not necessary to use a firearm effectively for self-defense or other sporting
18 purposes, today most AR-15s and similar firearms incorporate features designed to
19 accept one or more of dozens of newer accessories as well, all of which are
20 designed and marketed to increase the effectiveness of the rifle in live-fire
21 situations. The list of accessories includes hundreds of magazine options, highly-
22 effective electronic optics, more sensitive triggers, devices such as bump stocks and
23 modified trigger systems which convert guns to near-fully-automatic rates of fire,
24 forward and pistol grip options, tactical lights, laser-pointing devices, LCMs, and
25 many others. Almost none of these accessories were available to the United States
26 military at the time of the rifle’s adoption in the early 1960s, and in many cases

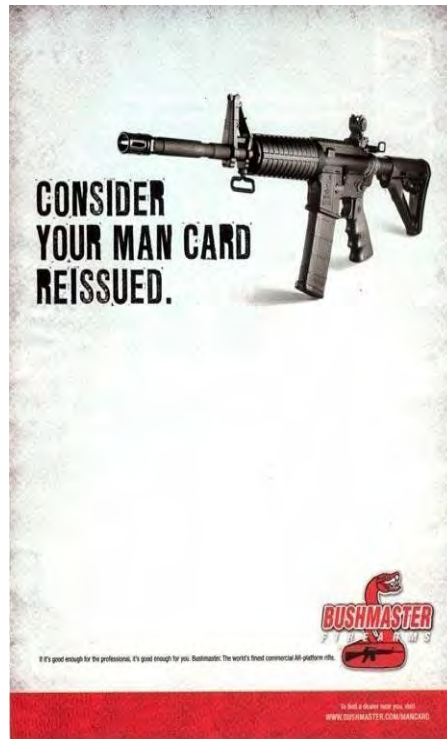
27 ²¹ Ruger Max pistol: <https://www.ruger.com/products/max-9/models.html>
28 (last viewed Feb. 1, 2023).

U.S. civilians can now outfit rifles in a manner more lethal than the rifles carried by the military—and in ways unnecessary for self-defense. 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.²²



29. 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 feature LCMs and overtly target young American males, such as this example from 2010-2012:

²² 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).



The gun advertised in this campaign (Bushmaster XM15 rifle) has been used by young men in notable mass shootings, including those in Sandy Hook, Connecticut and Buffalo, New York.²³

30. After campaigns such as the Bushmaster advertisement above were recognized as successful within the industry, other manufacturers, which had up until that point primarily supplied military units and police agencies, began to more aggressively target the U.S. civilian market. It is my experience that the aim of such efforts was generally to target young men with advertising that often involved equating the necessity of owning military weapons with proving masculinity.

²³ Bushmaster XM15 Mancard advertising article: <https://www.ammoland.com/2010/05/bushmaster-man-card/#axzz7q0HQao58> (last visited Jan. 10, 2023).

1 31. Smith and Wesson's AR-15 variant is now widely reported to be the
2 best-selling AR-15 in the United States. These rifles have been used in notable
3 mass shootings, including in the Parkland, Florida school shooting and in the
4 Highland Park, Illinois July 4th parade shooting. Smith and Wesson's primary
5 customers for this rifle are U.S. civilians who are generally not trained in military
6 or police tactics nor monitored by military safety protocols, but the company's
7 chosen name for this rifle—the M&P15, which means "Military and Police AR-
8 15"—suggests buyers will be equipped with the same rifles as trained military and
9 police units.²⁴

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



27 ²⁴ <https://www.smith-wesson.com/product/mp-15-sport-ii> (last visited Jan.
28 10, 2023).

1 A version of the Daniel Defense Rifle in this advertisement was featured in the
2 Modern Warfare²⁵ video game and used in the Uvalde, Texas shooting.²⁶

3 33. An increasing number of smaller AR-15 manufacturers often seek to
4 grow their market by advertising in ways that depict young men with LCMs in AR-
5 15s inciting or engaging in armed urban warfare, such as in this recent example
6 from AR-15 maker Spike's Tactical, which encourages men to deploy their AR-15s
7 (each one equipped with an LCM) in armed conflict across the United States:²⁷



23 ²⁵ One of many YouTube captures of the DDM4 Daniel Defense rifle in
24 Modern Warfare: https://www.youtube.com/watch?v=KM_sdzKGKv0 (last visited
Jan. 30, 2023).

25 ²⁶ Michael Daly, *Uvalde Shooter's Gunmaker Hypes 'Revolutionary' New*
26 *Killing Machine*, [https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-](https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine)
[gunmaker-daniel-defense-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).

27 ²⁷ Spikes Tactical Antifa advertisement:
28 [https://www.spikestactical.com/press/left-wing-media-outlets-lose-minds-over-gun-](https://www.spikestactical.com/press/left-wing-media-outlets-lose-minds-over-gun-ad-disregard-basic-rules-of-journalism/)
[ad-disregard-basic-rules-of-journalism/](https://www.spikestactical.com/press/left-wing-media-outlets-lose-minds-over-gun-ad-disregard-basic-rules-of-journalism/) (last visited Jan. 10, 2023).

1 34. Other AR-15 manufacturers now often seek to spur sales by depicting
2 men deploying their personal AR-15s and LCMs in self-appointed armed vigilante
3 actions, such as this advertising image supplied by the AR-15 maker Patriot
4 Ordnance Factory:²⁸

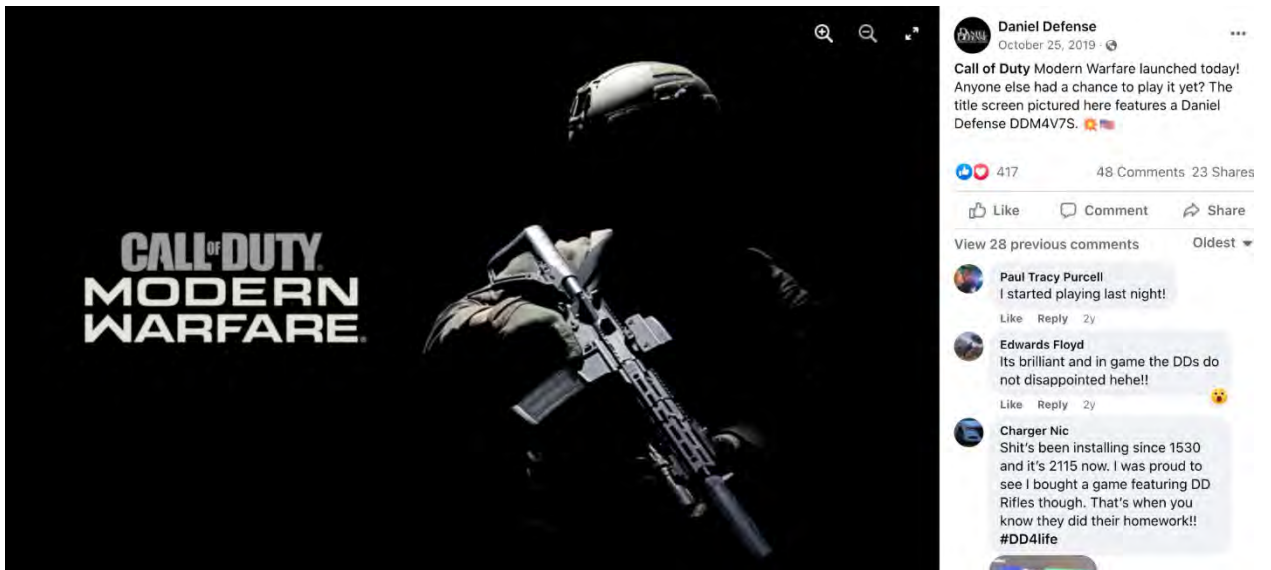


16 35. Many firearms companies now seek out, and celebrate placement of
17 firearms with large capacity magazines in popular video games that are commonly
18 played by children. The following is a notable example of an AR-15 company
19 celebrating the placement of their gun into the Call of Duty Modern Warfare video
20 game:²⁹

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²⁸ <https://pof-usa.com/wallpapers/> (last visited Jan. 10, 2023).

27 ²⁹ Article on firearms marketing:
28 <https://www.theatlantic.com/ideas/archive/2022/07/firearms-industry-marketing-mass-shooter/670621/> (last viewed Feb. 1, 2023).



36. Some prominent AR-15 companies design and market their rifle 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:³⁰



37. 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 and magazine selections through an online ordering process. Below is one such example.³¹ The

³⁰ <https://www.wilsoncombat.com/ar-calibers/224-valkyrie/super-sniper/> (last visited Jan. 10, 2023).

³¹ <https://rooftoparms.com/> (last visited Jan. 10, 2023).

1 official corporate name of this manufacturer further suggests the preferred use of
2 their AR-15s is from “rooftops,” which is precisely how the shooter during the
3 Highland Park, Illinois July 4th parade deployed his AR-15 rifle and LCMs.



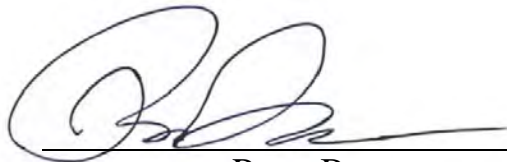
16 38. In my experience, many individuals and companies in the firearms
17 industry who once imposed reasonable self-restraint regarding sales and marketing
18 practices now operate under the belief that the Protection in Lawful Commerce in
19 Arms Act (PLCAA),³² which became law in 2005, provides a liability shield for
20 product development, sales and marketing efforts. It is also my experience that the
21 AR-15/assault weapon marketing, as detailed in the examples above, has increased
22 in frequency and become much more explicit since PLCAA enactment.

23 39. It is my opinion that increased sales and ownership stem from this
24 marketing, as opposed to any legitimate increased necessity for, or efficacy of,
25 assault weapons for self-defense.

28 ³² 15 U.S.C. §§ 7901–7903.

1 I declare under penalty of perjury that the foregoing is true and correct.
2 Executed on February 27, 2023 at Kalispell, Montana.

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Ryan Busse

EXHIBIT 52

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9 *Attorneys for Defendant Rob Bonta,*
in his official capacity¹

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 **STEVEN RUPP; STEVEN**
16 **DEMBER; CHERYL JOHNSON;**
17 **MICHAEL JONES;**
18 **CHRISTOPHER SEIFERT;**
19 **ALFONSO VALENCIA; TROY**
20 **WILLIS; and CALIFORNIA RIFLE**
21 **& PISTOL ASSOCIATION,**
22 **INCORPORATED,**

23 Plaintiffs,

24 v.

25 **ROB BONTA, in his official capacity**
26 **as Attorney General of the State of**
27 **California; and DOES 1-10,**

28 Defendants.

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL EXPERT
REPORT AND DECLARATION
OF SAUL CORNELL**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the Attorney General of the State of California. Pursuant to Federal Rule of Civil Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as the defendant in this case.

SUPPLEMENTAL EXPERT REPORT AND DECLARATION OF SAUL CORNELL

I, Saul Cornell, declare that the following is true and correct:

1. I have been asked by the Office of the Attorney General for the State of California 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 *N.Y. 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 report 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

1 invited lectures, presented papers at faculty workshops, and participated in
2 conferences on the topic of the Second Amendment and the history of gun
3 regulation at Yale Law School, Harvard Law School, Stanford Law School, UCLA
4 Law School, the University of Pennsylvania Law School, Columbia Law School,
5 Duke Law School, Pembroke College Oxford, Robinson College, Cambridge,
6 Leiden University, and McGill University.²

7 4. My writings on the Second Amendment and gun regulation have been
8 widely cited by state and federal courts, including the majority and dissenting
9 opinions in *Bruen*.³ My scholarship on this topic has appeared in leading law
10 reviews and top peer-reviewed legal history journals. I authored the chapter on the
11 right to bear arms in *The Oxford Handbook of the U.S. Constitution* and co-
12 authored the chapter in *The Cambridge History of Law in America* on the Founding
13 era and the Marshall Court, the period that includes the adoption of the Constitution
14 and the Second Amendment.⁴ Thus, my expertise not only includes the history of
15 gun regulation and the right to keep and bear arms, but also extends to American
16 legal and constitutional history broadly defined. I have provided expert witness
17 testimony in *Rocky Mountain Gun Owners, Nonprofit Corp. v. Hickenlooper*, No.
18 14-cv-02850 (D. Colo.); *Chambers, v. City of Boulder*, No. 2018 CV 30581 (Colo.
19 D. Ct., Boulder Cty.), *Zeleny v. Newsom*, No. 14-cv-02850 (N.D. Cal.), and *Miller v.*
20 *Smith*, No. 2018-cv-3085 (C.D. Ill.); *Jones v. Bonta*, 3:19-cv-01226-L-AHG (S.D.
21 Cal.); *Baird v. Bonta*, No. 2:19-cv-00617 (E.D. Cal.); *Worth v. Harrington*, No. 21-

23 ² For a full *curriculum vitae* listing relevant invited and scholarly
24 presentations, see Exhibit 1.

25 ³ *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111 (2022).

26 ⁴ Saul Cornell, *The Right to Bear Arms*, in THE OXFORD HANDBOOK OF THE
27 U.S. CONSTITUTION 739–759 (Mark Tushnet, Sanford Levinson & Mark Graber
28 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).

1 cv-1348 (D. Minn.); *Miller v. Bonta*, No. 3:19-cv-01537-BEN-JLB (S.D. Cal.); and
2 *Duncan v. Bonta*, No. 3:17-cv-01017-BEN-JLB (S.D. Cal.).

3 **RETENTION AND COMPENSATION**

4 5. I am being compensated for services performed in the above-entitled
5 case at an hourly rate of \$500 for reviewing materials, participating in meetings,
6 and preparing reports; \$750 per hour for depositions and court appearances; and an
7 additional \$100 per hour for travel time. My compensation is not contingent on the
8 results of my analysis or the substance of any testimony.

9 **BASIS FOR OPINION AND MATERIALS CONSIDERED**

10 6. The opinion I provide in this report is based on my review of the
11 amended complaint filed in this lawsuit, my review of the local ordinances at issue
12 in this lawsuit, my education, expertise, and research in the field of legal history.
13 The opinions contained herein are made pursuant to a reasonable degree of
14 professional certainty.

15 **SUMMARY OF OPINIONS**

16 7. Understanding text, history, and tradition require a sophisticated grasp
17 of historical context. One must canvass the relevant primary sources, secondary
18 literature, and jurisprudence to arrive at an understanding of the scope of
19 permissible regulation consistent with the Second Amendment.

20 8. It is impossible to understand the meaning and scope of Second
21 Amendment protections without understanding the way Americans in the Founding
22 era approached legal questions and rights claims. In contrast to most modern
23 lawyers, the members of the First Congress who wrote the words of the Second
24 Amendment and the American people who enacted the text into law were well
25 schooled in English common law ideas. Not every feature of English common law
26 survived the American Revolution, but there were important continuities between
27
28

1 English law and the common law in America.⁵ Each of the new states, either by
2 statute or judicial decision, adopted multiple aspects of the common law, focusing
3 primarily on those features of English law that had been in effect in the English
4 colonies for generations.⁶ No legal principle was more important to the common
5 law than the concept of the peace.⁷ As one early American justice of the peace
6 manual noted: “the term peace, denotes the condition of the body politic in which
7 no person suffers, or has just cause to fear any injury.”⁸ Blackstone, a leading
8 source of early American views about English law, opined that the common law
9 “hath ever had a special care and regard for the conservation of the peace; for peace
10 is the very end and foundation of civil society.”⁹

11 9. In *Bruen*, Justice Kavanaugh reiterated *Heller*’s invocation of
12 Blackstone’s authority as a guide to how early Americans understood their
13 inheritance from England. Specifically, Justice Kavanaugh stated in unambiguous
14 terms that there was a “well established historical tradition of prohibiting the
15 carrying of dangerous and unusual weapons.”¹⁰ The dominant understanding of

16 ⁵ William B. Stoebuck, *Reception of English Common Law in the American*
17 *Colonies*, 10 WM. & MARY L. REV. 393 (1968); MD. CONST. OF 1776,
18 DECLARATION OF RIGHTS, art. III, § 1; Lauren Benton & Kathryn Walker, *Law for*
19 *the Empire: The Common Law in Colonial America and the Problem of Legal*
Diversity, 89 CHI.-KENT L. REV. 937 (2014).

20 ⁶ 9 STATUTES AT LARGE OF PENNSYLVANIA 29-30 (Mitchell & Flanders eds.
21 1903); FRANCOIS XAVIER MARTIN, A COLLECTION OF STATUTES OF THE
22 PARLIAMENT OF ENGLAND IN FORCE IN THE STATE OF NORTH-CAROLINA 60–61
(Newbern, 1792); *Commonwealth v. Leach*, 1 Mass. 59 (1804).

23 ⁷ LAURA F. EDWARDS, THE PEOPLE AND THEIR PEACE: LEGAL CULTURE AND
24 THE TRANSFORMATION OF INEQUALITY IN THE POST-REVOLUTIONARY SOUTH
(University of North Carolina Press, 2009).

25 ⁸ JOSEPH BACKUS, THE JUSTICE OF THE PEACE 23 (1816).

26 ⁹ 1 WILLIAM BLACKSTONE, COMMENTARIES *349.

27 ¹⁰ *District of Columbia v. Heller*, 554 U.S. 570, 626–627 (2008), and n. 26.
28 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

1 the Second Amendment and its state constitutional analogues at the time of their
2 adoption in the Founding period forged an indissoluble link between the right to
3 keep and bear arms with the goal of preserving the peace.¹¹

4 10. “Constitutional rights,” Justice Scalia wrote in *Heller*, “are enshrined
5 with the scope they were thought to have when the people adopted them.”¹²
6 Included in this right was the most basic right of all: the right of the people to
7 regulate their own internal police. Although modern lawyers and jurists are
8 accustomed to thinking of state police power, the Founding generation viewed this
9 concept as a right, not a power.¹³ The first state constitutions clearly articulated
10 such a right — including it alongside more familiar rights such as the right to bear

11 _____
12 and unusual in one case and sometimes as dangerous or unusual in the other
13 instance, see Saul Cornell, *The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities*, 39 FORDHAM URB. L.J.
14 1695134 (2012). It is also possible that the phrase was an example of an archaic
15 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).

16 ¹¹ On Founding-era conceptions of liberty, see JOHN J. ZUBLY, THE LAW OF
17 LIBERTY (1775). The modern terminology to describe this concept is “ordered
18 liberty.” See *Palko v. Connecticut*, 302 U.S. 319, 325 (1937). For a more recent
19 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).

22 ¹² *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);
23 Christopher Tomlins, *Necessities of State: Police, Sovereignty, and the Constitution*, 20 J. POL’Y HIST. 47 (2008).

25 ¹³ On the transformation of the Founding era’s ideas about a “police right”
26 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).

1 arms.¹⁴ Pennsylvania’s Constitution framed this estimable right succinctly: “That
2 the people of this State have the sole, exclusive and inherent right of governing and
3 regulating the internal police of the same. Thus, if Justice Scalia’s rule applies to
4 the scope of the right to bear arms, it must also apply to the scope of the right of the
5 people to regulate their internal police. The history of gun regulation in the decades
6 after the right to bear arms was codified in both the first state constitutions and the
7 federal bill of rights underscores this important point.

8 11. In the years following the adoption of the Second Amendment and its
9 state analogues, firearm regulation increased. Indeed, the individual states
10 exercised their police powers to address longstanding issues and novel problems
11 created by firearms in American society. In particular, the states regulated and
12 when appropriate prohibited categories of weapons deemed to be dangerous *or*
13 unusual.

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

16 12. The United States Supreme Court’s decisions in *Heller*, *McDonald*¹⁵,
17 and *Bruen* have directed courts to look to text and history for guideposts in
18 evaluating the scope of permissible firearms regulation under the Second
19 Amendment. In another case involving historical determinations, Justice Thomas,
20 the author of the majority opinion in *Bruen*, has noted that judges must avoid
21 approaching history, text, and tradition with an “ahistorical literalism.”¹⁶ Legal
22 texts must not be read in a decontextualized fashion detached from the web of

23 ¹⁴ PA. CONST. of 1776, ch. I, art. III; MD. DECLARATION OF RIGHTS, art. IV
24 (1776); N.C. DECLARATION OF RIGHTS, art. I, § 3 (1776); and VT. DECLARATION OF
25 RIGHTS, art. V (1777).

26 ¹⁵ *McDonald v. City of Chicago*, 561 U.S. 742 (2010).

27 ¹⁶ *Franchise Tax Board of California v. Hyatt*, 139 S. Ct. 1485, 1498 (2019)
28 (Thomas, J.) (criticizing “ahistorical literalism”).

1 historical meaning that made them comprehensible to Americans living in the past.
2 Instead, understanding the public meaning of constitutional texts requires a solid
3 grasp of the relevant historical contexts.¹⁷

4 13. Following the mandates set out in *Heller*, *McDonald* and more recently
5 in *Bruen*, history provides essential guideposts in evaluating the scope of
6 permissible regulation under the Second Amendment.¹⁸ Moreover, as *Bruen* makes
7 clear, history neither imposes “a regulatory straightjacket nor a regulatory blank
8 check.”¹⁹ The Court acknowledged that when novel problems created by firearms
9 are issue the analysis must reflect this fact: “other cases implicating unprecedented
10 societal concerns or dramatic technological changes may require a more nuanced
11 approach.” *Bruen* differentiates between cases in which contested regulations are
12 responses to long standing problems and situations in which modern regulations
13 address novel problems with no clear historical analogues from the Founding era or
14 the era of the Fourteenth Amendment.

15 14. In the years between *Heller* and *Bruen*, historical scholarship has
16 expanded our understanding of the history of arms regulation in the Anglo-
17 American legal tradition, but much more work needs to be done to fill out this
18 picture.²⁰ Indeed, such research is still ongoing: new materials continue to emerge;
19 and in the months since *Bruen* was decided, additional evidence about the history of
20 regulation has surfaced and new scholarship interpreting it has appeared in leading
21 law reviews and other scholarly venues.²¹

22 _____
23 ¹⁷ See Jonathan Gienapp, *Historicism and Holism: Failures of Originalist*
Translation, 84 FORDHAM L. REV. 935 (2015).

24 ¹⁸ *Bruen*, 142 S. Ct. 2111.

25 ¹⁹ *Id.*

26 ²⁰ Eric M. Ruben & Darrell A. H. Miller, *Preface: The Second Generation of*
Second Amendment Law & Policy, 80 L. & CONTEMP. PROBS. 1 (2017).

27 ²¹ *Symposium — The 2nd Amendment at the Supreme Court: “700 Years Of*
28 *History” and the Modern Effects of Guns in Public*, 55 U.C. DAVIS L. REV. 2495

1 15. Justice Kavanaugh underscored a key holding of *Heller* in his *Bruen*
2 concurrence: “Like most rights, the right secured by the Second Amendment is not
3 unlimited. From Blackstone through the 19th-century cases, commentators and
4 courts routinely explained that the right was not a right to keep and carry any
5 weapon whatsoever in any manner whatsoever and for whatever purpose.”
6 Crucially, the Court further noted that “we do think that *Heller* and *McDonald* point
7 toward at least two metrics: how and why the regulations burden a law-abiding
8 citizen’s right to armed self-defense.”²²

9 16. One overarching principle regarding firearms regulation does
10 emerge from this period and it reflects not only the common law assumptions
11 familiar to the Founding generation, but it is hard-wired into the Second
12 Amendment itself. As Justice Scalia noted in *Heller*, and Justice Thomas reiterated
13 in *Bruen*, the original Second Amendment was a result of interest balancing
14 undertaken by the people themselves in framing the federal Constitution and the
15 Bill of Rights. Thus, from its outset the Second Amendment recognizes both the
16 right to keep and bear arms and the right of the people to regulate arms to promote
17 the goals of preserving a free state. An exclusive focus on rights and a
18 disparagement of regulation is thus antithetical to the plain meaning of the text of
19 the Second Amendment. Although rights and regulation are often cast as
20 antithetical in the modern gun debate, the Founding generation saw the two goals as
21 complimentary. Comparing the language of the Constitution’s first two
22 amendments and their different structures and word choice makes this point crystal
23 clear. The First Amendment prohibits “abridging” the rights it protects. In standard
24 American English in the Founding era, to “abridge” meant to “reduce.” Thus, the

25 _____
26 (2022); NEW HISTORIES OF GUN RIGHTS AND REGULATION: ESSAYS ON THE PLACE
27 OF GUNS IN AMERICAN LAW AND SOCIETY (Joseph Blocher, Jacob D. Charles &
28 Darrell A.H. Miller eds., forthcoming 2023).

²² *Bruen*, 142 S. Ct. at 2132–33.

1 First Amendment prohibits a diminishment of the rights it protects. The Second
2 Amendment's language employs a very different term, requiring that the right to
3 bear arms not be "infringed."²³ In Founding-era American English, the word
4 "infringement" meant to "violate" or "destroy." In short, when read with the
5 Founding era's interpretive assumptions and legal definitions in mind, the two
6 Amendments set up radically different frameworks for evaluating the rights they
7 enshrined in constitutional text. Members of the Founding generation would have
8 understood that the legislature could regulate the *conduct* protected by the Second
9 Amendment and comparable state arms bearing provisions as long such regulations
10 did not destroy the underlying *right*.

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

17 18. Similarly, Nathan Bailey's *Dictionarium Britannicum* (1730) defined
18 "abridge" as to "shorten," while "infringe" was defined as to "break a law."²⁵ And
19 his 1763 *New Universal Dictionary* repeats the definition of "abridge" as "shorten"

20 ²³ The distinction emerges clearly in a discussion of natural law and the law
21 of nations in an influential treatise on international law much esteemed by the
22 Founding generation: "Princes who infringe the law of nations, commit as great a
23 crime as private people, who violate the law of nature," J.J. BURLAMAQUI, *THE*
24 *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>.

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

28 ²⁵ *Abridge*, DICTIONARIUM BRITANNICUM (1730).

1 and “infringe” as “to break a law, custom, or privilege.”²⁶ Samuel Johnson’s
2 *Dictionary of the English Language* (1755) defines “infringe” as “to violate; to
3 break laws or contracts” or “to destroy; to hinder.”²⁷ Johnson’s definition of
4 “abridge” was “to shorten” and “to diminish” or “to deprive of.”²⁸ And Noah
5 Webster’s *An American Dictionary of the English Language* (1828) largely repeats
6 Johnson’s definitions of “infringe” and “abridge.”²⁹

7 19. Regulation, including robust laws, were not understood to be an
8 “infringement” of the right to bear arms, but rather the necessary foundation for the
9 proper exercise of that right as required by the concept of ordered liberty.³⁰ As one
10 patriotic revolutionary era orator observed, almost a decade after the adoption of the
11 Constitution: “True liberty consists, not in having *no government*, not in a
12 *destitution of all law*, but in our having an equal voice in the formation and
13 execution of the laws, according as they effect [*sic*] our persons and property.”³¹
14
15

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

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

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

19 ²⁹ *Abridge, Infringe*, AN AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE
20 (1828).

21 ³⁰ Dan Edelstein, *Early-Modern Rights Regimes: A Genealogy of*
22 *Revolutionary Rights*, 3 CRITICAL ANALYSIS L. 221, 233–34 (2016). *See generally*
23 GERALD LEONARD & SAUL CORNELL, *THE PARTISAN REPUBLIC: DEMOCRACY,*
24 *EXCLUSION, AND THE FALL OF THE FOUNDERS’ CONSTITUTION, 1780s–1830s*, at 2;
25 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
26 rights and other philosophical traditions); Joseph Postell, *Regulation During the*
27 *American Founding: Achieving Liberalism and Republicanism*, 5 AM. POL.
28 *THOUGHT* 80 (2016) (examining the importance of regulation to Founding political
and constitutional thought).

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).

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

3 20. The key insight derived from taking the Founding era conception of
4 rights seriously and applying the original understanding of the Founding era's
5 conception of liberty is the recognition that regulation and liberty were not
6 antithetical to one another. The inclusion of rights guarantees in constitutional texts
7 was not meant to place them beyond the scope of legislative control. "The point of
8 retaining natural rights," originalist scholar Jud Campbell reminds us "was not to
9 make certain aspects of natural liberty immune from governmental regulation.
10 Rather, retained natural rights were aspects of natural liberty that could be restricted
11 only with just cause and only with consent of the body politic."³³ Rather than limit
12 rights, regulation was the essential means of preserving rights, including self-
13 defense.³⁴ In fact, without robust regulation of arms, it would have been impossible
14

15 ³² See generally QUENTIN SKINNER, LIBERTY BEFORE LIBERALISM (1998)
16 (examining neo-Roman theories of free citizens and how it impacted the
17 development of political theory in England); THE NATURE OF RIGHTS AT THE
18 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).

19 ³³ Jud Campbell, *The Invention of First Amendment Federalism*, 97 TEX. L.
20 REV. 517, 527 (2019) (emphasis in original). See generally Saul Cornell, *Half*
21 *Cocked: The Persistence of Anachronism and Presentism in the Academic Debate*
22 *Over the Second Amendment*, 106 J. OF CRIM. L. AND CRIMINOLOGY 203, 206
(2016) (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).

23 ³⁴ See Jud Campbell, *Judicial Review and the Enumeration of Rights*, 15
24 GEO. J.L. & PUB. POL'Y 569, 576–77 (2017). Campbell's work is paradigm-
25 shifting, and it renders Justice Scalia's unsubstantiated claim in *Heller* that the
26 inclusion of the Second Amendment in the Bill of Rights placed certain forms of
27 regulation out of bounds totally anachronistic. This claim has no foundation in
28 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

1 to implement the Second Amendment and its state analogues. Mustering the militia
2 required keeping track of who had weapons and included the authority to inspect
3 those weapons and fine individuals who failed to store them safely and keep them
4 in good working order.³⁵ The individual states also imposed loyalty oaths,
5 disarming those who refused to take such oaths. No state imposed a similar oath as
6 pre-requisite to the exercise of First Amendment-type liberties. Thus, some forms
7 of prior restraint, impermissible in the case of expressive freedoms protected by the
8 First Amendment or comparable state provisions, were understood by the Founding
9 generation to be perfectly consistent with the constitutional right to keep and bear
10 arms.³⁶

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

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

19 22. Guns have been regulated from the dawn of American history.³⁸ At the
20 time *Heller* was decided, there was little scholarship on the history of gun

21

[<https://perma.cc/J6QD-4YXG>] and Joseph Blocher, *Response: Rights as Trumps of*
22 *What?*, 132 HARV. L. REV. 120, 123 (2019).

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

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

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

28 ³⁸ Robert J. Spitzer, *Gun Law History in the United States and Second*

1 regulation and a paucity of quality scholarship on early American gun culture.³⁹
2 Fortunately, a burgeoning body of scholarship has illuminated both topics,
3 deepening scholarly understanding of the relevant contexts needed to implement
4 *Bruen*'s framework.⁴⁰

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

16 24. *Bruen*'s methodology requires judges to distinguish between the
17 relevant history necessary to understand early American constitutional texts and a
18 series of myths about guns and regulation that were created by later generations to
19 sell novels, movies, and guns themselves.⁴⁴ Unfortunately, many of these myths

20 *Amendment Rights*, 80 L. & CONTEMP. PROBS. 55 (2017).

21 ³⁹ *Id.*

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

23 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).

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

27 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)

28 ⁴⁴ PAMELA HAAG, THE GUNNING OF AMERICA: BUSINESS AND THE MAKING OF

1 continue to cloud legal discussions of American gun policy and Second
2 Amendment jurisprudence.⁴⁵

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

11 26. The surviving data from New England is particularly rich and has
12 allowed scholars to formulate a much better understanding of the dynamics of early
13 American gun policy and relate it to early American gun culture.⁴⁷ Levels of gun
14 violence among those of white European ancestry in the era of the Second
15 Amendment were relatively low compared to modern America. These low levels of
16 violence among persons of European ancestry contrasted with the high levels of
17 violence involving the tribal populations of the region. The data presented in
18 Figure 1 is based on the pioneering research of Ohio State historian Randolph Roth.

19 _____
20 AMERICAN GUN CULTURE (2016).

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

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

25 ⁴⁷ It is important to recognize that there were profound regional differences in
26 early America. See JACK P. GREENE, PURSUITS OF HAPPINESS: THE SOCIAL
27 DEVELOPMENT OF EARLY MODERN BRITISH COLONIES AND THE FORMATION OF
28 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).

1 It captures one of the essential facts necessary to understand what fears motivated
2 American gun policy in the era of the Second Amendment. The pressing problem
3 Americans faced at the time of the Second Amendment was that citizens were
4 reluctant to purchase military style weapons which were relatively expensive and
5 had little utility in a rural society. Americans were far better armed than their
6 British ancestors, but the guns most Americans owned and desired were those most
7 useful for life in an agrarian society: fowling pieces and light hunting muskets.⁴⁸
8 Killing pests and hunting birds were the main concern of farmers, and their choice
9 of firearm reflected these basic facts of life. Nobody bayoneted turkeys, and pistols
10 were of limited utility for anyone outside of a small elite group of wealthy,
11 powerful, and influential men who needed these weapons if they were forced to
12 face an opponent on the field of honor in a duel, as the tragic fate of Alexander
13 Hamilton so vividly illustrates.⁴⁹

14 27. Limits in Founding-era firearms technology also militated against the
15 use of guns as effective tools of interpersonal violence in this period. Eighteenth-
16 century muzzle-loading weapons, especially muskets, took too long to load and
17 were therefore seldom used to commit crimes. Nor was keeping guns loaded a
18 viable option because the black powder used in these weapons was not only
19 corrosive, but it attracted moisture like a sponge. Indeed, the iconic image of rifles
20 and muskets hung over the mantle place in early American homes was not primarily
21 a function of aesthetics or the potent symbolism of the hearth, as many today
22 assume. As historian Roth notes: “black powder’s hygroscopic, it absorbs water, it

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

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

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

Figure 1

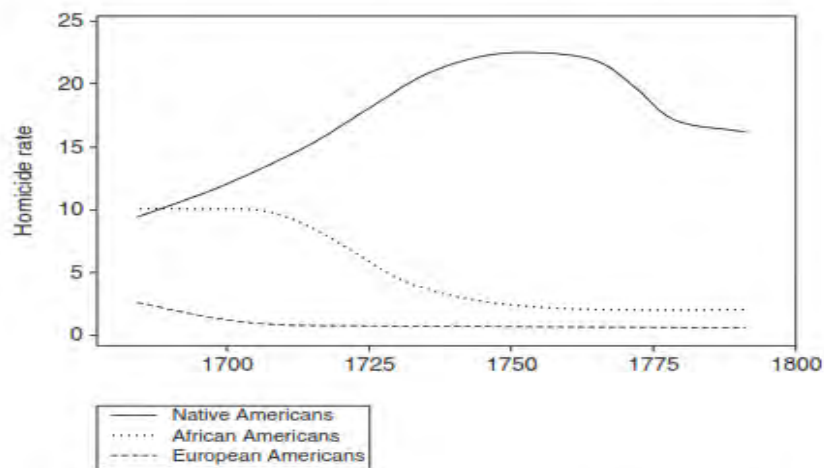


Figure 2.3 Unrelated-adult homicide rates in New England by race, 1677–1797 (per 100,000 persons per year).

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 problem the Founding generation faced was that Americans were reluctant to purchase the type of weapons needed to effectively arm their militias. When the U.S. government surveyed the state of the militia's preparedness shortly after Jefferson took office in

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>.

⁵¹ Sweeney, *supra* note 47.

⁵² HAAG, *supra* note 43.

1 1800, the problem had not been solved. Although Massachusetts boasted above
2 80% of its militia armed with military quality weapons, many of the southern states
3 lagged far behind, with Virginia and North Carolina hovering at about less than half
4 the militia properly armed.⁵³

5 29. Government policy, both at the state and federal level, responded to
6 these realities by requiring a subset of white citizens, those capable of bearing arms,
7 to acquire at their own expense a military quality musket and participate in
8 mandatory training and other martial activities. Gun policy in the Founding era
9 reflected these realities, and accordingly, one must approach any analogies drawn
10 from this period's regulations with some caution when applying them to a modern
11 heterogeneous industrial society capable of producing a bewildering assortment of
12 firearms whose lethality would have been almost unimaginable to the Founding
13 generation.⁵⁴ Put another way, laws created for a society without much of a gun
14 violence problem enacted at a time of relative gun scarcity, at least in terms of
15 militia weapons, have limited value in illuminating the challenges Americans face
16 today.

17 30. The other aspect of gun policy that needs to be acknowledged is the
18 active role the federal government took in encouraging the manufacturing of
19 military arms. The American firearms industry in its infancy was largely dependent
20 on government contracts and subsidies. Thus, government had a vested interest in
21 determining what types of weapons would be produced.⁵⁵ Government regulation
22 of the firearms industry also included the authority to inspect the manufactures of

23 ⁵³ Sweeney, *supra* note 47.

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

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

1 weapons and impose safety standards on the industry.⁵⁶ Some states opted to tax
2 some common weapons to discourage their proliferation.⁵⁷

3 31. The calculus of individual self-defense changed dramatically in the
4 decades following the adoption of the Second Amendment.⁵⁸ The early decades of
5 the nineteenth century witnessed a revolution in the production and marketing of
6 guns.⁵⁹ The same technological changes and economic forces that made wooden
7 clocks and other consumer goods such as Currier and Ives prints common items in
8 many homes also transformed American gun culture.⁶⁰ These same changes also
9 made handguns and a gruesome assortment of deadly knives, including the dreaded
10 Bowie knife, more common. The culmination of this gradual evolution in both
11 firearms and ammunition technology was the development of Samuel Colt's pistols
12

13 ⁵⁶ 1814 Mass. Acts 464, An Act In Addition To An Act, Entitled "An Act To
14 Provide For The Proof Of Fire Arms, Manufactured Within This Commonwealth,"
15 ch. 192, § 1 ("All musket barrels and pistol barrels, manufactured within this
16 Commonwealth, shall, before the same shall be sold, and before the same shall be
17 stocked, be proved by the person appointed according to the provisions of an act . .
18 . . ."); § 2 ("That if any person or persons, from and after the passing of this act,
19 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.")

20 ⁵⁷ 1858-1859 N.C. Sess. Laws 34-36, Pub. Laws, An Act Entitled Revenue,
chap. 25, § 27, pt. 15. ("The following subjects The following subjects shall be
21 annually listed, and be taxed the amounts specified: . . . Every dirk, bowie-knife,
22 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
23 mustering shall be exempt from taxation."). *See also* 1866 Ga. Law 27, An Act to
authorize the Justices of the Inferior Courts of Camden, Glynn and Effingham
24 counties to levy a special tax for county purposes, and to regulate the same.

25 ⁵⁸ Cornell, *supra* note 3, at 745.

26 ⁵⁹ Lindsay Schakenbach Regele, *Industrial Manifest Destiny: American
Firearms Manufacturing and Antebellum Expansion*, 93 BUS. HIST. REV. 57 (2018).

27 ⁶⁰ Sean Wilentz, *Society, Politics, and the Market Revolution*, in THE NEW
28 AMERICAN HISTORY (Eric Foner ed., 1990).

1 around the time of the Mexican-American War.⁶¹ Economic transformation was
2 accompanied by a host of profound social changes that gave rise to America's first
3 gun violence crisis. As cheaper, more dependable, and easily concealable handguns
4 proliferated in large numbers, Americans, particularly southerners, began sporting
5 them with alarming regularity. The change in behavior was most noticeable in the
6 case of handguns.⁶²

7 32. The response of states to the emergence of new firearms that
8 threatened the peace was a plethora of new laws. In sort, when faced with changes
9 in technology, consumer behavior, and faced with novel threats to public safety, the
10 individual states enacted laws to address these problems. In every instance apart
11 from a few outlier cases in the Slave South, courts upheld such limits on the
12 unfettered exercise a right to keep and bear arms. The primary limit identified by
13 courts in evaluating such laws was the threshold question about abridgement: did
14 the law negate the ability to act in self-defense.⁶³ In keeping with the clear
15 imperative hard-wired into the Second Amendment, states singled out weapons that
16 posed a particular danger for regulation or prohibition. Responding in this fashion
17 was entirely consistent with Founding-era conceptions of ordered liberty and the
18 Second Amendment.

19 33. Not all guns were treated equally by the law in early America. Some
20 guns were given heightened constitutional protection and others were treated as
21 ordinary property subject to the full force of state police power authority.⁶⁴ The

22 ⁶¹ WILLIAM N. HOSLEY, COLT: THE MAKING OF AN AMERICAN LEGEND (1st
23 ed. 1996).

24 ⁶² Cornell, *supra* note 9, at 716.

25 ⁶³ On southern gun rights exceptionalism, see Eric M. Ruben & Saul Cornell,
26 *Firearms Regionalism and Public Carry: Placing Southern Antebellum Case Law*
in Context, 125 YALE L.J. F. 121, 128 (2015).

27 ⁶⁴ Saul Cornell. *History and Tradition or Fantasy and Fiction: Which*
28 *Version of the Past Will the Supreme Court Choose in NYSRPA v. Bruen?*, 49
HASTINGS CONST. L.Q. 145 (2022).

1 people themselves acting through their legislatures retained the fundamental right to
2 determine which dangerous weapons were exempted from the full protection of the
3 constitutional right to keep and bear arms.

4 **III. THE POLICE POWER AND FIREARMS REGULATION**

5 34. The 1776 Pennsylvania Constitution, the first revolutionary
6 constitution to assert a right to bear arms, preceded the assertion of this right by
7 affirming a more basic rights claim: “That the people of this State have the sole,
8 exclusive and inherent right of governing and regulating the internal police of the
9 same.”⁶⁵ The phrase “internal police” had already become common, particularly in
10 laws establishing towns and defining the scope of their legislative authority.⁶⁶ By
11 the early nineteenth century, the term “police” was a fixture in American law.⁶⁷
12 Thus, an 1832 American encyclopedia confidently asserted that police, “in the
13 common acceptance of the word, in the U. States and England, is applied to the
14 municipal rules, institutions and officers provided for maintaining order, cleanliness
15 &c.”⁶⁸ The Founding era’s conception of a basic police right located in legislatures
16 was transmuted during the Marshall Court’s era into the judicial doctrine of the
17 police power and would become a fixture in American law.

18 ⁶⁵ PA. CONST. OF 1776, Ch. I, art iii.

19 ⁶⁶ For other examples of constitutional language similar to Pennsylvania’s
20 provision, N.C. CONST. OF 1776, DECLARATION OF RIGHTS, art. II; VT. CONST. OF
21 1777, DECLARATION OF RIGHTS, art. IV. For other examples of this usage, *see* An
22 Act Incorporating the residents residing within limits therein mentioned, *in* 2 NEW
23 YORK LAWS 158 (1785) (establishing the town of Hudson, NY); An Act to
24 incorporate the Town of Marietta, *in* LAWS PASSED IN THE TERRITORY NORTHWEST
25 OF THE RIVER OHIO 29 (1791). For later examples, *see* 1 STATUTES OF THE STATE OF
26 NEW JERSEY 561 (rev. ed. 1847); 1 SUPPLEMENTS TO THE REVISED STATUTES. LAWS
27 OF THE COMMONWEALTH OF MASSACHUSETTS, PASSED SUBSEQUENTLY TO THE
28 REVISED STATUTES: 1836 TO 1849, INCLUSIVE 413 (Theron Metcalf & Luther S.
Cushing, eds. 1849).

⁶⁷ ERNST FREUND, THE POLICE POWER: PUBLIC POLICY AND CONSTITUTIONAL
RIGHTS 2, n.2 (1904).

⁶⁸ 10 ENCYCLOPEDIA AMERICANA 214 new edition (Francis Lieber ed.).

1 35. The power to regulate firearms and gunpowder has always been
2 central to the police power and historically was shared among states, local
3 municipalities, and the federal government when it was legislating conduct on
4 federal land and in buildings.⁶⁹ The adoption of the Constitution and the Bill of
5 Rights did not deprive states of their police powers. Indeed, if it had, the
6 Constitution would not have been ratified and there would be no Second
7 Amendment today. Ratification was only possible because Federalists offered
8 Anti-Federalists strong assurances that nothing about the new government
9 threatened the traditional scope of the individual state's police power authority,
10 including the authority to regulate guns and gun powder.⁷⁰

11 36. Federalists and Anti-Federalists bitterly disagreed over many legal
12 issues, but this one point of accord was incontrovertible. Brutus, a leading Anti-
13 Federalist, emphatically declared that "[I]t ought to be left to the state governments
14 to provide for the protection and defence [sic] of the citizen against the hand of
15 private violence, and the wrongs done or attempted by individuals to each other
16"⁷¹ Federalist Tench Coxe concurred, asserting that: "[t]he states will regulate
17 and administer the criminal law, exclusively of Congress." States, he assured the
18 American people during ratification, would continue to legislate on all matters
19 related to the police power "such as unlicensed public houses, nuisances, and many
20 other things of the like nature."⁷² State police power authority was at its pinnacle in
21

22 ⁶⁹ Harry N. Scheiber, *State Police Power*, in 4 ENCYCLOPEDIA OF THE
23 AMERICAN CONSTITUTION 1744 (Leonard W. Levy et al. eds., 1986).

24 ⁷⁰ Saul Cornell, *THE OTHER FOUNDERS: ANTIFEDERALISM AND THE*
25 *DISSENTING TRADITION IN AMERICA, 1788-1828* (1999).

26 ⁷¹ Brutus, *Essays of Brutus VII*, reprinted in 2 THE COMPLETE
27 ANTIFEDERALIST 358, 400–05 (Herbert J. Storing ed., 1981).

28 ⁷² 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).

1 matters relating to guns or gun powder.⁷³ Thus, Massachusetts enacted a law that
2 prohibited storing a loaded weapon in a home, a firearms safety law that recognized
3 that the unintended discharge of firearms posed a serious threat to life and limb.⁷⁴
4 New York City even granted broad power to the government to search for gun
5 powder and transfer powder to the public magazine for safe storage:

6 it shall and may be lawful for the mayor or recorder, or any two
7 Alderman of the said city, upon application made by any inhabitant or
8 inhabitants of the said city, and upon his or their making oath of
9 reasonable cause of suspicion (of the sufficiency of which the said
10 mayor or recorder, or Aldermen, is and are to be the judge or judges)
11 to issue his or their warrant or warrants, under his or their hand and
12 seal, or hands and seals for searching for such gun powder, in the day
13 time, in any building or place whatsoever.⁷⁵

14 37. The power to regulate firearms and gunpowder was therefore at the
15 very core of the police power and inheres in both states and local municipalities.
16 The application of the police power to firearms and ammunition was singled out as
17 the quintessential example of state police power by Chief Justice John Marshall in
18 his 1827 discussion of laws regulating gun powder in *Brown v. Maryland*.⁷⁶ This
19 was so even though gunpowder was essential to the operation of firearms at that
20 time and gun powder regulations necessarily affected the ability of gun owners to
21 use firearms for self-defense, even inside the home.

22 ⁷³ CORNELL, *supra* note 33.

23 ⁷⁴ Act of Mar. 1, 1783, ch. XIII, 1783 Mass. Acts 37, An Act in Addition to
24 the Several Acts Already Made for the Prudent Storage of Gun Powder within the
25 Town of Boston, § 2.

26 ⁷⁵ An Act to Prevent the Storing of Gun Powder, within in Certain Parts of
27 New York City, LAWS OF THE STATE OF NEW-YORK, COMPRISING THE
28 CONSTITUTION, AND THE ACTS OF THE LEGISLATURE, SINCE THE REVOLUTION,
FROM THE FIRST TO THE FIFTEENTH SESSION, INCLUSIVE 191-2 (Thomas Greenleaf,
ed., 1792).

⁷⁶ 25 U.S. (12 Wheat.) 419, 442-43 (1827) (“The power to direct the removal
of gunpowder is a branch of the police power”).

1 38. A slow process of judicializing this concept of police, transforming the
2 Founding era's idea of a "police right" into a judicially enforceable concept of the
3 "police power" occurred beginning with the Marshall Court and continuing with the
4 Taney Court.⁷⁷

5 39. Nor was Chief Justice John Marshall unique in highlighting the
6 centrality of this idea to American law.⁷⁸ The ubiquity of the police power
7 framework for evaluating the constitutionality of legislation regarding firearms
8 reflected the centrality of this approach to nearly every question of municipal
9 legislation touching health or public safety in early America.⁷⁹ Massachusetts
10 Judge Lemuel Shaw, one of the most celebrated state jurists of the pre-Civil War era
11 elaborated this point in his influential 1851 opinion in *Commonwealth v. Alger*; a
12 decision that became a foundational text for lawyers, judges, and legislators looking
13 for guidance on the meaning and scope of the police power. Shaw described the
14 police power in the following manner:

15 ⁷⁷ Eras of Supreme Court history are typically defined by the tenure of the
16 Chief Justice. The Marshall Court Period covered the years 1801-1835. For a brief
17 overview, see "The Marshall Court, 1801-1835", SUPREME COURT HISTORICAL
18 SOCIETY (last visited Oct. 5, 2022), <https://supremecourthistory.org/history-of-the-court-history-of-the-courts/history-of-the-court-history-of-the-courts-the-marshall-court-1801-1835/>. The Taney Court period covered the years 1836-1864. See "The
19 Taney Court, 1836-1864", SUPREME COURT HISTORICAL SOCIETY (last visited Oct.
20 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/>.

21 ⁷⁸ In the extensive notes he added as editor of the 12th edition of James Kent's
22 classic *Commentaries on American Law*, Oliver Wendell Holmes, Jr., wrote that
23 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).

24 ⁷⁹ FREUND, *supra* note 66, at 2, n.2 (1904). WILLIAM J. NOVAK, THE PEOPLE'S
25 WELFARE: LAW AND REGULATION IN NINETEENTH-CENTURY AMERICA (1996);
26 Christopher Tomlins, *To Improve the State and Condition of Man: The Power to*
27 *Police and the History of American Governance*, 53 BUFF. L. REV. 1215 (2005);
28 DUBBER, *supra* note 12; GARY GERSTLE, LIBERTY AND COERCION: THE PARADOX OF
AMERICAN GOVERNMENT, FROM THE FOUNDING TO THE PRESENT (Princeton Univ.
Press, 2015).

1 [T]he power vested in the legislature by the constitution, to make,
2 ordain and establish all manner of wholesome and reasonable laws,
3 statutes and ordinances, either with penalties or without, not
4 repugnant to the constitution, as they shall judge to be for the good
5 and welfare of the commonwealth, and of the subjects of the same.
6 It is much easier to perceive and realize the existence and sources
7 of this power, than to mark its boundaries, or prescribe limits to its
8 exercise. There are many cases in which such a power is exercised
9 by all well-ordered governments, and where its fitness is so
10 obvious, that all well regulated minds will regard it as reasonable.
11 Such are the laws to prohibit the use of warehouses for the storage
12 of gunpowder.⁸⁰

13 40. In short, there was unanimous agreement among leading antebellum
14 jurists, at both the federal and state level, that the regulation of arms and gun
15 powder was at the core of the police power enjoyed by legislatures. Indeed, the
16 scope of government power to regulate, prohibit, and inspect gunpowder has been
17 among the most far reaching of any exercise of the police power throughout
18 American history.⁸¹ A Maine law enacted in 1821 authorized town officials to enter
19 any building in town to search for gun powder:

20 Be it further enacted, That it shall, and may be lawful for any one or
21 more of the selectmen of any town to enter any building, or other
22 place, in such town, to search for gun powder, which they may have
23 reason to suppose to be concealed or kept, contrary to the rules and
24 regulations which shall be established in such town, according to the
25 provisions of this Act, first having obtained a search warrant therefore
26 according to law.⁸²

27 41. No jurisdiction enumerated the full contours of the police power they
28 possessed in a single text or in a single statute or ordinance. Rather, it was well

24 ⁸⁰ *Commonwealth v. Alger*, 61 Mass. (7 Cush.) 53 (1851). For another good
25 discussion of how state jurisprudence treated the concept, see *Thorpe v. Rutland*, 27
26 Vt. 140, 149 (1855).

27 ⁸¹ CORNELL, THE POLICE POWER, *supra* note 33.

28 ⁸² 1821 Me. Laws 98, An Act for the Prevention of Damage by Fire, and the
Safe Keeping of Gun Powder, chap. 25, § 5.

1 understood that the exercise of this power would need to adapt to changing
2 circumstances and new challenges as they emerged. This conception of law was
3 familiar to most early American lawyers and judges who had been schooled in
4 common law modes of thinking and analysis.⁸³ Throughout the long sweep of
5 Anglo-American legal history, government applications of the police power were
6 marked by flexibility, allowing local communities to adapt to changing
7 circumstances and craft appropriate legislation to deal with the shifting challenges
8 they faced.⁸⁴ This vision of the police power was articulated forcefully by the
9 Supreme Court in the License Cases when Justice McClean wrote this about the
10 scope of state police power:

11 It is not susceptible of an exact limitation, but must be exercised under
12 the changing exigencies of society. In the progress of population, of
13 wealth, and of civilization, new and vicious indulgences spring up, which
14 require restraints that can only be imposed by new legislative power.
When this power shall be exerted, how far it shall be carried, and where it
shall cease, must mainly depend upon the evil to be remedied.⁸⁵

15 42. One of the most important early American gun-related cases discussed
16 in *Heller*, *State v. Reid*, offers an excellent illustration of the way police power
17 jurisprudence was used by antebellum judges to adjudicate claims about gun rights
18 and the right of the people to regulate.⁸⁶ The case is a classic example of
19 antebellum police power jurisprudence. The Supreme Court of Alabama evaluated
20 the statute by focusing on the scope of state police power authority over guns. “The
21 terms in which this provision is phrased,” the court noted, “leave with the
22 Legislature the authority to adopt such regulations of police, as may be dictated by
23

24 ⁸³ KUNAL M. PARKER, COMMON LAW HISTORY, AND DEMOCRACY IN
AMERICA, 190-1900: LEGAL THOUGHT BEFORE MODERNISM (2013).

25 ⁸⁴ William J. Novak, *A State of Legislatures*, 40 POLITY 340 (2008).

26 ⁸⁵ *License Cases* (*Thurlow v. Massachusetts*; *Fletcher v. Rhode Island*; *Peirce*
27 *v. New Hampshire*), 5 How. (46 U.S.) 504, 592 (1847).

28 ⁸⁶ *See State v. Reid*, 1 Ala. 612, 612 (1840).

1 the safety of the people and the advancement of public morals.”⁸⁷ In the court’s
2 view, the regulation of arms was at the very core of state police power.⁸⁸ The
3 judicial determination was straight forward: was the challenged law a legitimate
4 exercise of the police power or not?

5 **IV. RECONSTRUCTION AND THE EXPANSION OF STATE POLICE POWER TO**
6 **REGULATE FIREARMS (1863-1877)**

7 43. Founding-era constitutions treated the right of the people to regulate
8 their internal police separately from the equally important right of the people to
9 bear arms. These two rights were separate in the Founding era but were mutually
10 reinforcing: both rights were exercised in a manner that furthered the goal of
11 ordered liberty. Reconstruction-era constitutions adopted a new textual formulation
12 of the connection between these two formerly distinct rights, fusing the two
13 together as one single constitutional principle. This change reflected two profound
14 transformations in American politics and law between 1776 and 1868. First, the
15 judicial concept of police power gradually usurped the older notion of a police right
16 grounded in the idea of popular sovereignty. As a result, state constitutions no
17 longer included positive affirmations of a police right. Secondly, the constitutional
18 “mischief to be remedied” had changed as well.⁸⁹ Constitution writers in the era of

19 ⁸⁷ *Id.* at 616.

20 ⁸⁸ Apart from rare outlier decisions, such as *Bliss v. Commonwealth*, 12 Ky.
21 (2 Litt.) 90, 92 (1822) courts employed a police power framework to adjudicate
22 claims about the scope of state power to regulate arms. For a useful discussion of
23 *Bliss* in terms of the police power, see FREUND, *supra* note 66, at 91.

24 ⁸⁹ The mischief rule was first advanced in *Hevdon’s Case*, (1584) 76 Eng.
25 Rep. 637 (KB) — the legal principle that the meaning of a legal text was shaped by
26 an understanding of the state of the common law prior to its enactment and the
27 mischief that the common law had failed to address and legislation had intended to
28 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

1 the American Revolution feared powerful standing armies and sought to entrench
2 civilian control of the military. By contrast, constitution writers in the era of the
3 Fourteenth Amendment were no longer haunted by the specter of tyrannical Stuart
4 Kings using their standing army to oppress American colonists. In place of these
5 ancient fears, a new apprehension stalked Americans: the proliferation of
6 especially dangerous weapons and the societal harms they caused.⁹⁰

7 44. The new language state constitutions employed to describe the right to
8 bear arms enacted during Reconstruction responded to these changed circumstances
9 by adopting a new formulation of the venerable right codified in 1776, linking the
10 right to bear arms inextricably with the states broad police power to regulate
11 conduct to promote health and public safety.⁹¹ For example, the 1868 Texas
12 Constitution included new language that underscored the indissoluble connection
13 that Anglo-American law had long recognized between the right to keep and bear
14 arms and regulation of guns. “Every person shall have the right to keep and bear
15 arms, in the lawful defence of himself or the government, under such regulations as
16 the Legislature may prescribe.”⁹² Nor was Texas an outlier in this regard. Sixteen
17 state constitutions adopted during this period employed similarly expansive
18

19 _____
20 SWIFT, A DIGEST OF THE LAWS OF THE STATE OF CONNECTICUT 11 (New Haven, S.
21 Converse 1822). For a modern scholarly discussion of the rule, see Samuel L.
22 Bray, *The Mischief Rule*, 109 GEO. L.J. 967, 970 (2021).

23 ⁹⁰ See *McDonald*, 561 U.S. at 767–68

24 ⁹¹ Saul Cornell, *The Right to Regulate Arms in the Era of the Fourteenth
25 Amendment: The Emergence of Good Cause Permit Schemes in Post-Civil War
26 America*, 55 U.C. DAVIS L. REV. 65 (2022).

27 ⁹² TEX. CONST. OF 1868, Art. I, § 13; for similarly expansive constitutional
28 provision enacted after the Civil War, see IDAHO CONST. OF 1889, art. I, § 11 (“The
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.”).

1 language.⁹³ Millions of Americans living in the newly organized western states and
2 newly reconstructed states of the former confederacy adopted constitutional
3 provisions that reflected this new formulation of the right to bear arms. Thus,
4 millions of Americans were living under constitutional regimes that acknowledged
5 that the individual states' police power authority over firearms was at its apogee
6 when regulating guns.⁹⁴

7 45. This expansion of regulation was entirely consistent with the
8 Fourteenth Amendment's emphasis on the protection of rights and the need to
9 regulate conduct that threatened the hard-won freedoms of recently free people of
10 the South and their Republican allies. The goals of Reconstruction were therefore
11 intimately tied to the passage and enforcement of racially neutral gun regulations.⁹⁵

12 46. Reconstruction ushered in profound changes in American law, but it
13 did not fundamentally alter the antebellum legal view that a states' police powers
14 were rooted in the people's right to make laws to protect the peace and promote
15 public safety. Nor did Reconstruction challenge the notion that these powers were
16 at their zenith when dealing with guns and gun powder. In fact, the Republicans
17 who wrote the Fourteenth Amendment were among the most ardent champions of
18 an expansive view of state police power. As heirs to the antebellum Whig vision of
19 a well-regulated society, Reconstruction-era Republicans used government power
20 aggressively to protect the rights of recently freed slaves and promote their vision
21 of ordered liberty.⁹⁶

22 ⁹³ Cornell, *supra* note 90, at 75–76.

23 ⁹⁴ *Id.*

24 ⁹⁵ ERIC FONER, *THE SECOND FOUNDING: HOW THE CIVIL WAR AND*
25 *RECONSTRUCTION REMADE THE CONSTITUTION* (2019); Brennan Gardner Rivas,
26 *Enforcement of Public Carry Restrictions: Texas as a Case Study*, 55 U.C. DAVIS L.
REV. 2603 (2022).

27 ⁹⁶ Robert J. Kaczorowski, *Congress's Power to Enforce Fourteenth*
28 *Amendment Rights: Lessons from Federal Remedies the Framers Enacted*, 42
HARV. J. ON LEGIS. 187 (2005); Christopher Tomlins, *To Improve the State and*

1 47. Indeed, the passage of the Fourteenth Amendment was premised on the
2 notion that the individual states would not lose their police power authority to the
3 federal government. The author of Section One of the Fourteenth Amendment,
4 John Bingham, reassured voters that the states would continue to bear the primary
5 responsibility for “local administration and personal security.”⁹⁷ As long as state
6 and local laws were racially neutral and favored no person over any other, the
7 people themselves, acting through their representatives, were free to enact
8 reasonable measures necessary to promote public safety and further the common
9 good.⁹⁸

10 48. It would be difficult to understate the impact of this new paradigm for
11 gun regulation on post-Civil War legislation. Across the nation legislatures took
12 advantage of the new formulation of the right to bear arms included in state
13 constitutions and enacted a staggering range of new laws to regulate arms. Indeed,
14 the number of laws enacted skyrocketed, increasing by over four hundred percent
15 from antebellum levels.⁹⁹ Not only did the number of laws increase, but the
16 number of states and localities passing such laws also expanded.¹⁰⁰

17 49. Henry Campbell Black, the author of *Black’s Law Dictionary*,
18 described the police power as “inalienable” and echoed the view of a long line of
19 jurists who noted that the scope of the power was not easily defined and the

20 _____
21 *Condition of Man: The Power to Police and the History of American Governance*
22 53 BUFFALO L. REV. 1215 (2005/2006).

22 ⁹⁷ John Bingham, *Speech*, CINCINNATI DAILY GAZETTE (Sept. 2, 1867), as
23 quoted in Saul Cornell and Justin Florence, *The Right to Bear Arms in the Era of*
24 *the Fourteenth Amendment: Gun Rights or Gun Regulation*, 50 SANTA CLARA L.
25 REV. 1043, 1058 (2010).

25 ⁹⁸ For a discussion of how the courts wrestled with the meaning of the
26 Amendment, see WILLIAM E. NELSON, *THE FOURTEENTH AMENDMENT: FROM*
27 *POLITICAL PRINCIPLE TO JUDICIAL DOCTRINE* (1998).

27 ⁹⁹ See Spitzer, *supra* note 37, at 59–61 tbl. 1.

28 ¹⁰⁰ *Id.*

1 determination of its limits was best left to courts on a case-by-case basis.¹⁰¹ Indeed,
2 even the most ardent critics of the police power, such as conservative legal scholar
3 Christopher G. Tiedeman, acknowledged that “police power of the State extends to
4 the protection of the lives, limbs, health, comfort and quiet of all persons, and the
5 protection of all property within the State.”¹⁰²

6 50. In keeping with the larger goals of Reconstruction, Republicans sought
7 to protect the rights of African Americans to bear arms but were equally insistent on
8 enacting strong racially neutral regulations aimed at public safety. Violence
9 directed against African Americans, particularly the campaign of terror orchestrated
10 by white supremacist para-military groups prompted Republican dominated
11 legislatures in the Reconstruction South to pass a range of racially neutral gun
12 regulations.¹⁰³ The racially neutral gun laws enacted by Republicans were in part a
13 reaction to the discriminatory black codes passed by neo-confederate legislatures
14 earlier in Reconstruction. The Black Codes violated the Second Amendment, but
15 the wave of firearms legislation passed by Republican controlled state legislatures
16 in the South were consciously crafted to honor the Second Amendment and protect
17 individuals from gun violence.¹⁰⁴

18
19 ¹⁰¹ HENRY CAMPBELL BLACK, HANDBOOK OF CONSTITUTIONAL LAW, 334–344
20 (2d ed., 1897).

21 ¹⁰² CHRISTOPHER G. TIEDEMAN, A TREATISE ON THE LIMITATIONS OF THE
22 POLICE POWER IN THE UNITED STATES 4–5 (1886) (citing *Thorpe v. Rutland R.R.*, 27
Vt. 140, 149–50 (1854)).

23 ¹⁰³ Mark Anthony Frassetto, *The Law and Politics of Firearms Regulation in*
24 *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).

25 ¹⁰⁴ See Darrell A. H. Miller, *Peruta, The Home-Bound Second Amendment,*
26 *and Fractal Originalism*, 127 HARV. L. REV. 238, 241 (2014); see also Robert J.
27 Kaczorowski, *Congress’s Power to Enforce Fourteenth Amendment Rights:*
28 *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).

1 51. The laws enacted during Reconstruction underscore the fact that robust
2 regulation of firearms during Reconstruction was not a novel application of the
3 police power, but an expansion and continuation of antebellum practices. Moreover,
4 these efforts illustrated a point beyond dispute: the flexibility inherent in police
5 power regulations of guns. American states had regulated arms since the dawn of
6 the republic and Reconstruction simply renewed America's commitment to the idea
7 of well-regulated liberty.

8 **V. ASSAULT WEAPONS BANS, THE POLICE POWER, AND THE LATEST FACE**
9 **OF TERROR**

10 52. Another major inflection point in the debate over firearms regulation
11 focused on assault weapons, and was closely connected to the rise of mass
12 shootings in the last decades of the twentieth century.¹⁰⁵ California led the way
13 with its ban on assault weapons enacted after the Stockton School Massacre in
14 1989.¹⁰⁶ Proposals to ban assault weapons are part of a larger national movement to
15 deal with the carnage caused by high capacity, high velocity weapons.¹⁰⁷ The effort
16 to ban such weapons parallels earlier efforts to deal with machine guns and semi-
17 automatic weapons during the 1920s.¹⁰⁸

18 53. Gun rights advocates have insisted that the term "assault weapon" is an
19 invention of gun control activists and that the term is essentially meaningless.¹⁰⁹

20 ¹⁰⁵ Allen Rostron, *Style, Substance, and the Right to Keep and Bear Assault*
21 *Weapons*, 40 CAMPBELL L. REV. 301 (2018); Jaclyn Schildkraut et.al., *Mass*
22 *Shootings, Legislative Responses, and Public Policy: An Endless Cycle of Inaction*,
68 EMORY L.J. 1043 (2020).

23 ¹⁰⁶ Cal. Penal Code §§ 16350, 16790, 16890, 30500-31115.

24 ¹⁰⁷ ROBERT SPITZER, *THE POLITICS OF GUN CONTROL* 14 (2012).

25 ¹⁰⁸ *Supra* note 37

26 ¹⁰⁹ For a good illustration of the gun rights point of view, Stephen P.
27 Halbrook, *New York's Not So "SAFE" Act: The Second Amendment in an Alice-In-*
28 *Wonderland World Where Words Have No Meaning*, 78 ALBANY L. REV. 789
(2015).

1 For those in the gun rights community, these “modern sporting rifles” share
2 functions and features with many other guns including some hunting rifles.¹¹⁰
3 Much of the current controversy over bans or restrictions on dangerous or unusual
4 weapons revolves around the AR-15 and similar types of weapons and
5 accessories.¹¹¹ The debate’s heavy focus on technological factors obscures the fact
6 that legislative efforts to ban these weapons fit squarely within the long Anglo-
7 American tradition of limiting public access to weapons capable of provoking
8 terror. During America’s first gun violence crisis in the Jacksonian era, states
9 targeted pistols that were easily concealed and in the New Deal era, states singled
10 out gangster weapons such as the notorious “Tommy Gun” [Thompson sub-
11 machine gun] as sufficiently dangerous or unusual to warrant extensive regulation,
12 or prohibition. The same imperatives and constitutional logic guided both
13 regulatory regimes.¹¹²

14 54. The history of the AR-15 illustrates that the earlier dynamic governing
15 firearms regulation established in the nineteenth-century continues to shape
16 American public policy and law. Regulation of firearms follows a well-worn path.
17 Technological innovation is only part of this equation. In addition, weapons must
18 also achieve sufficient market penetration to create a potential for criminal abuse.

21 ¹¹⁰ On modern marketing of firearms, *see* HAAG, *supra* note 43. Among the
22 most important insights of Haag’s work is that breech-loading rifles introduced
23 after the Civil War did not achieve sufficient market penetration a fact that partially
24 accounts for the absence of any movement to limit access to these weapons which
remained primarily of interest to sportsmen and the military.

25 ¹¹¹ James Jacobs, *Why Ban ‘Assault Weapons’?*, 37 CARDOZO L. REV. 681,
26 687 (2015). For a useful overview of the legal issues in regulating this class of
27 weapons, *see* Vivian S. Chu, *Federal Assault Weapons Ban: Legal Issues*
28 *Congressional Research Service*, February 14, 2013.

¹¹² Spitzer, *supra* note 37.

1 At this point legislatures attempt to find a means to address the problem posed by
2 these weapons without trenching on constitutionally protected liberties.¹¹³

3 55. The development of the AR-15 was tied to the strategic requirements
4 of the American military to find a replacement for heavier World War II-era rifles.
5 The military M-16 and the civilian AR-15 are closely related. In contrast to
6 standard issue military weapons such as the M-16, the AR-15 and other similar
7 civilian weapons are all semi-automatic, rather than selective fire weapons capable
8 of firing in either fully automatic or semi-automatic modes.

9 56. When they were first introduced military-style AR-15 types of
10 weapons were not especially popular.¹¹⁴ Gun makers eventually developed a more
11 effective set of marketing strategies.¹¹⁵ When first marketed, the AR-15's
12 connection to the military was a liability because lingering opposition to the
13 Vietnam War slowed down early civilian interest in a weapon that was closely
14 related to the M-16.¹¹⁶

15 57. There is no doubt that many of the pragmatic and cosmetic features of
16 AR-15 type weapons now account for their popularity among some segments of the
17 gun-owning public.¹¹⁷ The weapons are lighter, produce less recoil, and are easier
18 to fire than an older generation of hunting rifles. The fact that these weapons are

19 ¹¹³ *Id.*

20 ¹¹⁴ David M. Studdert et al., *Testing the Immunity of the Firearm Industry to*
21 *Tort Litigation*, 177 JAMA INTERNAL MEDICINE 102, 102-05 (2017).

22 ¹¹⁵ Joseph Blocher, *Has the Constitution Fostered a Pathological Rights*
23 *Culture? The Right to Bear Arms: Gun Rights Talk*, 94 B.U. L. REV. 813 (2014) and
24 Joseph Blocher, *Hunting and the Second Amendment*, 91 NOTRE DAME L. REV. 133
(2015).

25 ¹¹⁶ On the insurrectionary tradition, see David C. Williams, *Constitutional*
26 *Tales of Violence: Populists, Outgroups, and the Multicultural Landscape of the*
27 *Second Amendment*, 74 TUL. L. REV. 387 (1999).

28 ¹¹⁷ Rachel A. Callcut et al., *Effect Of Mass Shootings on Gun Sales-A 20-*
Year Perspective, 87 J. TRAUMA ACUTE CARE SURGERY 531 (2019).

1 also highly customizable has increased their consumer appeal but has also rendered
2 them more lethal. Commentators have analogized them to other consumer
3 products, describing them as an adult and hyper-masculine version of a “Barbie
4 Doll.”¹¹⁸ Opponents of robust regulation of assault weapons insist that the targeted
5 weapons are neither especially dangerous nor unusual. Moreover, gun rights
6 advocates insist that the term “assault weapons” is an invention of gun control
7 advocates and the prohibition targets cosmetic features.¹¹⁹

8 58. Understanding the marketing strategies tying these weapons to the
9 military makes clear that efforts to regulate these weapons by using these same
10 features is hardly cosmetic. Moreover, focusing exclusively on technology and
11 ignoring the social history of these weapons, their popularity and potential for
12 abuse, misses an important point about the history of firearms technology and
13 government regulation. The history and tradition of arms regulation has always
14 recognized that weapons that had the ability to inspire *terrorem populi* is a
15 legitimate justification for regulation. The perpetrator of the Sandy Hook
16 Elementary Mass Shooting used a Bushmaster AR-15-type weapon that was
17 marketed with a slogan that traded on hyper-aggressive forms of toxic masculinity:
18 “Consider Your Man Card Reissued.”¹²⁰ There is little disputing the fact that

19 ¹¹⁸ Robert J. Spitzer, *Why Assault Rifles are Selling*, CHICAGO TRIBUNE, June
20 16, 2015.

21 ¹¹⁹ Stephen P. Halbrook, *Reality Check: The Assault Weapon Fantasy and*
22 *Second Amendment Jurisprudence*, 14 GEORGETOWN J. OF L. & PUB. POL’Y. 47
23 (2016). For a good example of this type of flawed technological determinist
24 approach, see David B. Kopel, *Rational Basis Analysis of “Assault Weapon”*
25 *Prohibition*, 20 J. CONTEMP. L. 381 (1994). For a general discussion of the
26 problems with technological determinism, see Merritt R. Smith, and Leo Marx,
27 DOES TECHNOLOGY DRIVE HISTORY? THE DILEMMA OF TECHNOLOGICAL
28 DETERMINISM (Cambridge, MA: MIT, 1994); Allan Dafoe, *On Technological*
Determinism: A Typology, Scope Conditions, and a Mechanism Science, 40 TECH.
& HUM. VALUES 1047 (2015).

¹²⁰ Alexander DeConde, GUN VIOLENCE IN AMERICA; Cornell and DeDino,
supra note 36.

1 despite protestations by gun rights advocates and industry executives that these
2 weapons are merely “sporting rifles” the marketing campaigns used to sell these
3 tells a different story. The success of these weapons commercially was inextricably
4 linked to marketing strategies that tied these weapons to their origins in the
5 military. These sales strategies deliberately evoked images of military assault
6 capabilities.¹²¹ The advertisement from two popular arms manufacturers pictured
7 below are illustrative of these campaigns.¹²² Ruger explicitly employs the term
8 “Tactical Rifle” and Sig Sauer’s choice of imagery unambiguously links its
9 weapons to images of military close quarter combat.



121 Mark Berman & Todd C. Frankel, *Companies made more than \$1B selling powerful guns to civilians, report says House oversight committee accused gun manufacturers of “manipulative marketing campaigns” and profiting off violence*, WASHINGTON POST (July 27, 2022, 7:19 PM), <https://www.washingtonpost.com/national-security/2022/07/27/companies-made-more-than-1b-selling-powerful-guns-civilians-report-says/>.

122 CAROLYN MALONEY, SUPPLEMENTAL MEMORANDUM: THE COMMITTEE’S INVESTIGATION INTO GUN INDUSTRY PRACTICES AND PROFITS (JUL. 27, 2022), <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022.07.27%20Supplemental%20MEMO%20for%20the%207-27-2022%20FC%20Gun%20Manufacturer%20Hearing.pdf>.



59. Bruen did not address these technology-focused arguments. The New York law in question singled out handguns, not assault weapons. From the perspective of text, history, and tradition, the key legal fact is that that these weapons are perceived by important segments of the public to weapons capable of provoking a terror.¹²³ Even if one accepted that some of the specified features on these weapons were simply cosmetic, a point hotly contested by proponents of stronger regulation, this fact does not negate the undeniable fact that these weapons

¹²³ Mass shootings have been rendered more deadly by the proliferation of assault weapons, see John Donahue III & Theodora Boulouta, *The Assault Weapon Ban Saved Lives*, STANFORD LAW SCHOOL BLOGS (Oct. 15, 2019), <https://law.stanford.edu/2019/10/15/the-assault-weapon-ban-saved-lives/>. For the most recent assessment of the impact of assault weapons on the American gun violence problem, see Christopher S. Koper et. al., *Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: An Updated Examination of Local and National Sources*, 95 J. URB. HEALTH 313 (2018).

1 produce the type of terror that Anglo-American law has always recognized as a
2 threat to the peace.¹²⁴ Firearms manufacturers created a type of weapon and
3 marketed it to distinct demographics, stressing characteristics and cultural
4 associations that tied them to war and then used these associations to effectively
5 market them. The fact that a successful marketing strategy earned gun companies
6 over a billion dollars is a fact that contradicts the claims of gun rights advocates
7 these weapons are no different than other guns available to consumers. If that were
8 true, then gun companies would have abandoned these marketing strategies long
9 ago and replaced them with something more effective. It would be illogical and run
10 counter to the most basic principles of Anglo-American law to argue that people
11 themselves are powerless to regulate these weapons to mitigate the threats they
12 pose to peace and public safety. The appeal of these weapons and their contribution
13 to gun violence are two sides of the same coin.¹²⁵ A government's ability to
14 address the negative effects of these weapons is well within the scope of its police
15 powers, as historically understood.

16 **VI. BRUEN'S FRAMEWORK AND MODERN ASSAULT WEAPONS BANS**

17 60. The power to regulate and in some cases prohibit dangerous or unusual
18 weapons has always been central to the police power authority of states and
19 localities. At different moments in American history communities have deemed

20
21 ¹²⁴ Mark Anthony Frassetto, *To the Terror of the People: Public Disorder*
22 *Crimes and the Original Public Understanding of the Second Amendment*, 43
SOUTH. ILL. UNIV. L.J. 61 (2018).

23 ¹²⁵ Polly Mosendz, *Why Gunmakers Would Rather Sell AR-15s Than*
Handguns, BLOOMBERG (June 20, 2018, 3:00 AM),
24 [https://www.bloomberg.com/news/articles/2018-06-20/why-gunmakers-would-](https://www.bloomberg.com/news/articles/2018-06-20/why-gunmakers-would-rather-sell-ar-15s-than-handguns)
[rather-sell-ar-15s-than-handguns](https://www.bloomberg.com/news/articles/2018-06-20/why-gunmakers-would-rather-sell-ar-15s-than-handguns); John J. Donohue, *The Swerve to "Guns*
25 *Everywhere": A Legal and Empirical Evaluation*, 83 Law & Contemp. Problems
26 117 (2020); Christopher S. Koper, *Assessing The Potential to Reduce Deaths And*
27 *Injuries From Mass Shootings Through Restrictions on Assault Weapon and Other*
28 *High-Capacity Semiautomatic 19 Firearms*, CRIMINOLOGY & PUBLIC POLICY 147
(2020); Mark Gius, *The Impact of State and Federal Assault Weapons Bans on*
Public Mass Shootings, 22 APPLIED ECON. LETTERS 281 (2014).

1 categories of weapons to be especially dangerous and have regulated them, and
2 when it appeared necessary enacted bans on some types of weapons. Such
3 determinations were not made based on technological features in isolation but
4 reflected the ancient common law tradition of singling out weapons capable of
5 producing a terror. Such weapons undermined the peace and the constitutional
6 imperative embedded in the text of the Second Amendment to protect the security
7 of a free state. Defining exactly which category of weapons have fallen outside of
8 the scope of constitutional protection has shifted over time as society has addressed
9 new developments in firearms technology, evolving societal norms, and other
10 changes. In short, social, and economic transformation were always accompanied
11 by legal transformation. Put another way, as times change, the law changes with
12 them.¹²⁶

13 61. Political scientist Robert Spitzer's overview of the history of firearms
14 regulation underscores a basic point about American law: "The lesson of gun
15 regulation history here is that new technologies bred new laws when circumstances
16 warranted."¹²⁷ States and localities have regulated gunpowder and arms, since the
17 earliest days of the American Republic. The statutes at issue in this case are
18 analogous to a long-established tradition of firearms regulation in America,
19 beginning in the colonial period and stretching across time to the present. This
20 venerable tradition of using police power authority to craft specific laws to meet
21 shifting challenges has continued to the present day.¹²⁸ The adaptability of state and
22 local police power provided the flexibility governments needed to deal with the
23 problems created by changes in firearms technology and gun culture.

26 ¹²⁶ Spitzer, *supra* note 37.

27 ¹²⁷ *Id.*

28 ¹²⁸ GERSTLE, *supra* note 78.

1
2 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the
3 laws of the United States of America that the foregoing is true and correct.

4 Executed on January 6, 2023, at Philadelphia, Pennsylvania.
5
6

7 *Saul Cornell*
8 _____
9 Saul Cornell
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EXHIBIT 1

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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),
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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)

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EXHIBIT 53

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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14
15 **STEVEN RUPP; STEVEN**
16 **DEMBER; CHERYL JOHNSON;**
17 **MICHAEL JONES;**
18 **CHRISTOPHER SEIFERT;**
19 **ALFONSO VALENCIA; TROY**
20 **WILLIS; and CALIFORNIA RIFLE**
21 **& PISTOL ASSOCIATION,**
22 **INCORPORATED,**

23 Plaintiffs,

24 v.

25 **ROB BONTA, in his official capacity**
26 **as Attorney General of the State of**
27 **California; and DOES 1-10,**

28 Defendants.

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL EXPERT
REPORT AND DECLARATION
OF JOHN J. DONOHUE**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the Attorney General of the State of California. Pursuant to Federal Rule of Civil Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as the defendant in this case.

1 **SUPPLEMENTAL EXPERT REPORT AND DECLARATION OF**
2 **JOHN J. DONOHUE**

3 I, John J. Donohue, declare that the following is true and correct:

4 1. I am a professor and researcher who has written extensively on crime,
5 guns, and the impact of gun policies. I previously submitted an expert report in this
6 matter which was filed with this Court on March 25, 2019, in support of
7 Defendants' Motion for Summary Judgment ("2019 Report").² I have been asked
8 by the Office of the Attorney General for the State of California to prepare a
9 supplemental expert report in the post-remand proceedings in this case updating my
10 2019 Report with more current information.

11 2. This supplemental expert report and declaration ("Supplemental
12 Report") is based on my own personal knowledge and experience, and, if I am
13 called as a witness, I could and would testify competently to the truth of the matters
14 discussed in this Supplemental Report.

15 **PROFESSIONAL QUALIFICATIONS**

16 3. I am the C. Wendell and Edith M. Carlsmith Professor of Law at
17 Stanford Law School. A true and correct copy of my current curriculum vitae is
18 attached as **Exhibit A** to this declaration.

19 4. Since submitting the 2019 Report, I have provided additional
20 testimony as an expert witness. I filed an expert declaration in *Chambers v. City of*
21 *Boulder*, Case No. 2018CV30581, in the District Court of Boulder County in
22 September 2020, involving a challenge to the City of Boulder's restrictions on
23 assault weapons.

24 5. At the request of the United States Department of Justice, I filed an
25 expert declaration in July 2020 and testified at trial in April 2021 in a case arising

26 _____
27 ² My 2019 Report was attached as Exhibit 1 to the Declaration of Peter
28 Chang in Support of Defendants' Motion for Summary Judgment and filed in this
 matter at Docket Number 76-1.

1 out of the Sutherland Springs mass shooting that killed 26 in November 2017:
2 *Holcombe, et al. v. United States*, Case No. 5:18-CV-555-XR (W.D. Tex.). On
3 December 9, 2020, I submitted an expert report on behalf of the City of San
4 Francisco in a wrongful conviction lawsuit, *Caldwell v. City of San Francisco*, Case
5 No. 12-cv-1892 DMR, United States District Court, Northern District of California,
6 Oakland Division.

7 6. I was the main author of the Brief of Amici Curiae Social Scientists
8 and Public Health Researchers in Support of Respondents, which was submitted to
9 the United States Supreme Court on September 21, 2021 in *New York State Rifle &*
10 *Pistol Association v. Bruen*, Case No. 20-843.

11 7. On January 24, 2022, I submitted an expert declaration in *Worth v.*
12 *Harrington*, a lawsuit in the District of Minnesota (Case No. 21-cv-1348)
13 challenging how Minnesota regulates the concealed carry of firearms by individuals
14 aged 18 to 20. I was deposed in this case on March 28, 2022.

15 8. On May 31, 2022, I submitted an expert declaration in *Meyer v. Raoul*,
16 a lawsuit in the Southern District of Illinois (Case No. 21-cv-518-SMY)
17 challenging how Illinois regulates the concealed carry of firearms by individuals
18 aged 18 to 20.

19 9. On September 14, 2022, I submitted an expert declaration in
20 *Viramontes v. The County of Cook*, a lawsuit in the Northern District of Illinois
21 (Case No. 1:21-cv-04595) challenging the Blair Holt Assault Weapons Ban enacted
22 by Cook County, Illinois in 2006.

23 10. On January 23, 2020, I submitted an expert declaration in *Miller v.*
24 *Bonta*, a lawsuit in the Southern District of California (Case No. 3:19-cv-01537-
25 BEN-JLB) challenging how California regulates assault weapons. On October 23,
26 2020, I testified during an evidentiary hearing on the plaintiffs' motion for a
27 preliminary injunction in this case. And on October 13, 2022, I submitted a
28 supplemental expert declaration in *Miller*.

11. On November 10, 2022, I submitted an expert declaration in *Duncan v. Bonta*, a lawsuit in the Southern District of California (Case No. 17-cv-01017-BEN-JLB) challenging how regulates large-capacity magazines.

12. I have been retained by the California Department of Justice to render expert opinions in this case. I am being compensated at a rate of \$850 per hour.

OPINIONS

I. THE GROWING PROBLEM OF PUBLIC MASS SHOOTING IN THE UNITED STATES

13. I have been asked by the California Department of Justice to update the opinions expressed in my 2019 Report with currently available information. I continue to stand by the opinions and conclusions expressed in my 2019 Report.

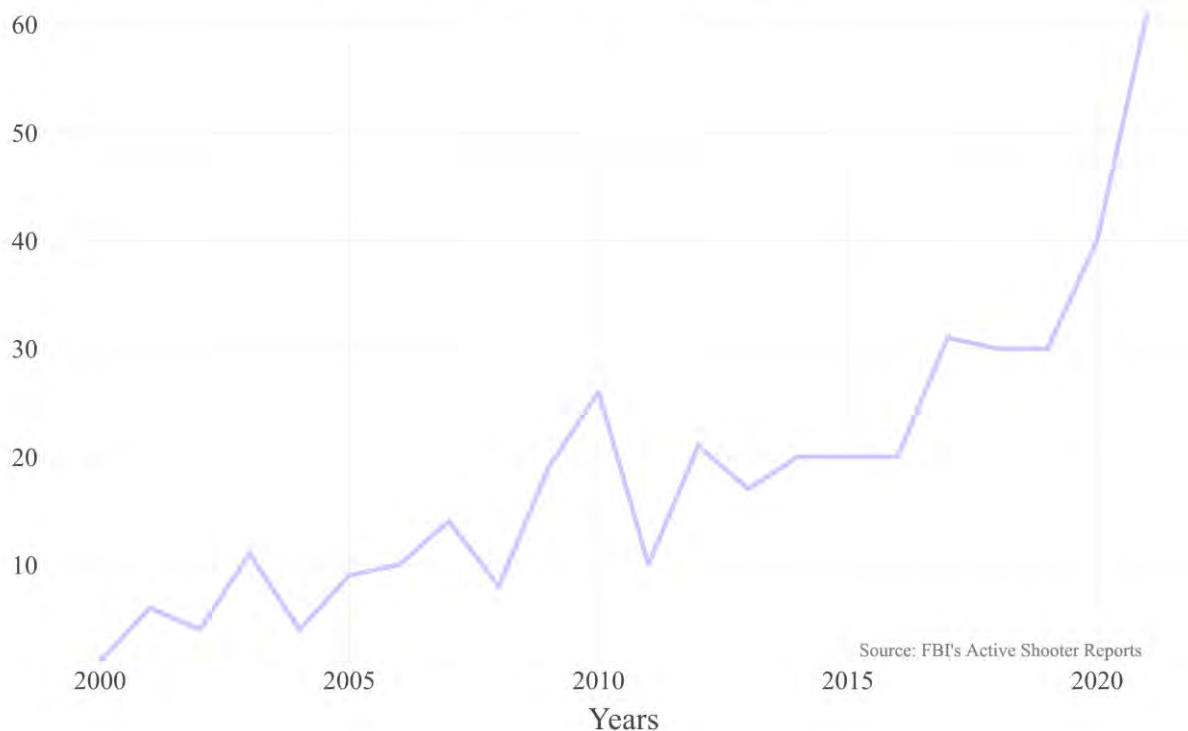
14. At the time of my 2019 Report, I stressed that the problem of active shooter incidents, which had been on the rise, would only be getting worse if significant action was not taken to address it. Sadly, my predictions based on the growing lethality of weaponry in the United States have been fulfilled. As bad as the active shooter problem looked in 2019, it is considerably worse today, as seen in the same FBI active shooter data now extended through 2021 in Figure 1. While 2017 was the peak of active shooter incidents at 30 up until that point, in 2021 the number more than doubled to 61.

15. The ominous and steep upward trend in the FBI data charting the growth in active shooter incidents is unmistakable. Not surprisingly, the number of mass shootings clearly is higher following the termination of the federal assault weapons ban in 2004. In that year, the FBI counted 4 active shooter incidents in which 14 died. Since then, the mayhem has accelerated so much that in 2021 the FBI counted 61 active shooter incidents killing 103.³

³ FBI, "Active Shooter Incidents in the United States in 2021," <https://www.fbi.gov/file-repository/active-shooter-incidents-in-the-us-2021-052422.pdf/view>. FBI Active shooter data for 2022 is not expected to become available until spring 2023.

Figure 1

Active Shooter Incidents, 2000-2021



16. Since my 2019 Report, the United States has experienced numerous, devastating mass shootings, including the March 22, 2021 shooting at King Soopers supermarket in Boulder, Colorado (10 killed); the May 26, 2021 shooting in San Jose, California (9 killed); the May 14, 2022 shooting in Buffalo, New York (10 killed); the May 24, 2022 shooting at Robb Elementary in Uvalde, Texas (19 children and 2 adults killed); and the July 4, 2022 shooting at a Fourth of July parade in Highland Park, Illinois (7 killed). These figures do not reflect the countless people injured, both physically and emotionally, and the devastation inflicted on the communities in which they occurred. For example, during the July 4 mass shooting in Highland Park, Illinois, an 8-year-old boy was paralyzed and may never walk again after a bullet severed his spinal cord.⁴

⁴ NBC Chicago, *Cooper Roberts, Boy, 8, Paralyzed in Highland Park*

1 17. The consequences for the shooter are also severe. Tellingly, the 18-
2 year-old Buffalo shooter, who killed 10 using the same weapon as the Sandy Hook
3 shooter—a Bushmaster XM-15 semiautomatic rifle—had written, “I am well aware
4 that my actions will effectively ruin my life. If I’m not killed during the attack, I
5 will go to prison for an inevitable life sentence.”⁵

6 18. Both the February 2018 mass killing at Parkland High School and the
7 May 2022 mass killing in Uvalde, Texas – where police delayed entering the school
8 during a shooting – vividly underscored how police responses to violence are
9 impaired when the officers are confronted by a shooter armed with an assault rifle.

10 19. Decades of research has shown that there is a considerable variation in
11 the survivability of a gun assault depending on the instrumentality employed. A
12 seminal 1972 study by UC Berkeley Professor Frank Zimring found “that the
13 outcome of gun assaults had a large random element, and that the power of the
14 firearm was one systematic factor influencing the likelihood that an individual with
15 a gunshot injury would survive.”⁶

16 20. A meticulous study by Anthony Braga and Phil Cook in 2018 has
17 powerfully confirmed this instrumentality effect. Braga and Cook examined the
18 files of 511 gunshot victims kept by the Boston Police Department and found that
19 survivability from gunshot wounds varied considerably based on attributes of the

20 *Shooting, Continues to Push Forward, Mother Says*, Dec. 19, 2022,
21 [https://www.nbcchicago.com/news/local/cooper-roberts-8-year-old-paralyzed-in-](https://www.nbcchicago.com/news/local/cooper-roberts-8-year-old-paralyzed-in-highland-park-shooting-continues-to-push-forward-mother-says/3026490/)
22 [highland-park-shooting-continues-to-push-forward-mother-says/3026490/](https://www.nbcchicago.com/news/local/cooper-roberts-8-year-old-paralyzed-in-highland-park-shooting-continues-to-push-forward-mother-says/3026490/).

23 ⁵ Ashley Parker, Tyler Pager, and Colby Itkowitz, [“From Sandy Hook to Buffalo and Uvalde: Ten years of failure on gun control,”](#) *Washington Post*, May
24 22, 2022; Jesse McKinley, Jonah E. Bromwich, Andy Newman and Chelsia Rose
25 Marcius, [“Buffalo Suspect Planned Attack for Months, Online Posts Reveal,”](#) *The*
26 *New York Times*, May 16, 2022; Craig Whitlock, David Willman, and Alex Horton,
[“Massacre Suspect Said He Modified Bushmaster Rifle to Hold More Ammunition,”](#) *Washington Post*, May 15, 2022.

27 ⁶ The description of the Zimring study comes from Braga and Cook (2018),
28 *infra*, note 6.

1 weapon and ammunition that generated the wound. Specifically, the death rate
2 from handgun assault injuries increased substantially as the caliber of the firearm
3 increased—even though the caliber was not correlated with observable indicators of
4 the intent and determination to kill by the shooter. The shooter’s use of a medium
5 caliber handgun (.38, .380, and 9 mm) more than doubled the odds that the
6 wounded victim would die compared to small caliber handguns (.22, .25, and .32).
7 Large caliber handguns (.357 magnum, or greater) more than doubled the odds of
8 death compared to medium caliber handguns.

9 21. The authors conclude that:

10 The results here support the view that the intrinsic power and lethality of
11 the weapon had a direct effect on the likelihood that a victim of a
12 criminal shooting died. For Boston, in the period studied here, simply
13 replacing larger-caliber guns with small-caliber guns with no change in
14 location or number of wounds would have reduced the gun homicide rate
15 by 39.5 percent. It is plausible that larger reductions would be associated
16 with replacing all types of guns with knives or clubs (p.8, Braga and
17 Cook 2018).⁷

18 22. Of course, the conclusion of the Braga and Cook study—that
19 switching to less deadly firearm options could reduce firearm deaths—applies
20 directly to bans on assault weapons and high-capacity magazines. The greater the
21 lethality of the weapon, the more killed and injured in active shooter incidents.
22 This was clearly illustrated in a study for the *Journal of the American Medical*
23 *Association* that examined deaths and injuries documented in the FBI Active
24 Shooter Database from 2000-2017.⁸ The authors found that deaths and injuries

25 ⁷ Anthony A. Braga and Philip J. Cook, “The Association of Firearm Caliber
26 with Likelihood of Death from Gunshot Injury in Criminal Assaults,” *JAMA*
27 *Network Open*. 2018; 1(3):e180833. doi:10.1001/jamanetworkopen.2018.0833,
28 <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2688536>.

⁸ Elzerie de Jager, et al., “Lethality of Civilian Active Shooter Incidents With
and Without Semiautomatic Rifles in the United States,” *JAMA*.
2018;320(10):1034-1035. doi:10.1001/jama.2018.11009,
<https://jamanetwork.com/journals/jama/fullarticle/2702134>.

1 were substantially higher for the 61 active shooter incidents using a semiautomatic
2 rifle versus the 187 episodes using some other firearm. Specifically, in the
3 incidents in which the shooter employed a semi-automatic rifle the average number
4 killed or wounded was 9.72 versus only 5.47 killed or wounded when other
5 firearms were used. (Note that the authors excluded the horrific Las Vegas
6 shooting from the numbers above, since that case was so extreme, with 60 killed
7 and almost 500 wounded—all with semi-automatic rifles.)

8 23. This instrumentality effect was further demonstrated in an article I
9 authored with Phil Cook since my 2019 Report, demonstrating that the federal
10 assault weapons ban—which banned both new semi-automatic assault rifles with
11 certain features that made them attractive to mass shooters *and* new ammunition
12 magazines that could hold more than ten rounds—suppressed deaths in public mass
13 shootings.⁹ Figure 2 below shows that the deaths that occurred from these public
14 mass shootings over the period from 1985-2019 in five year increments. The
15 Figure highlights that by the second half of the ten-year existence of the federal
16 assault weapons ban (1999-2004), fatalities from public mass shootings using
17 banned weaponry had virtually been cut in half (falling from 30 down to 16).
18 Conversely, there was no decline in public mass shooting deaths over this period
19 with non-banned weaponry.

20 24. After the federal ban lapsed in 2004, the deaths from public mass
21 shootings using the previously banned weaponry rose sharply: rising from 16 in the
22 last five years of the federal ban to 271 in the five-year span from 2015-2019—with
23 the latter figure 17 times as high as the former. Meanwhile, there was relatively
24 little movement in public mass shooting deaths using the less-lethal weaponry
25 (neither an assault weapon nor a high-capacity magazine). Indeed, as Figure 2

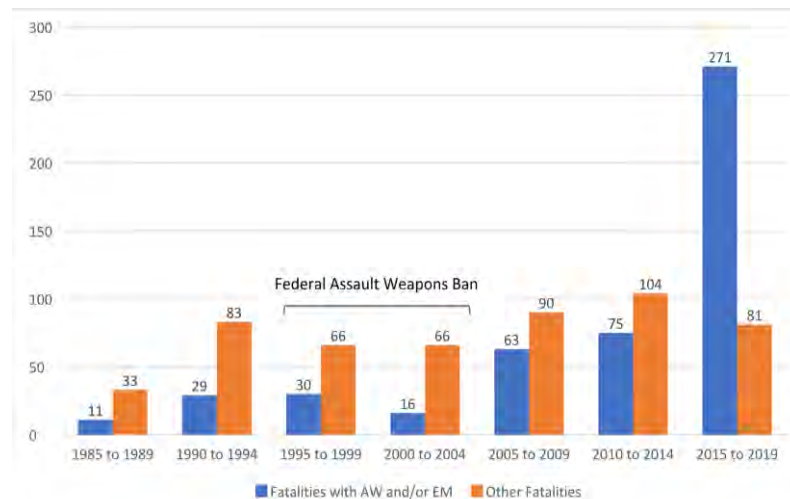
26
27 ⁹ Phil Cook and John Donohue, “Regulating Assault Weapons and Large-
28 Capacity Magazines for Ammunition,” *JAMA*. 2022; 328(12):1191-1192,
<https://jamanetwork.com/journals/jama/fullarticle/2796675>.

illustrates, there was roughly the same number of deaths from less lethal weaponry in the five-years prior to the federal assault weapons ban (1990-1994) as there was from 2015-2019—specifically 83 in the pre-ban period and 81 in the final period.

25. Figure 2 also highlights that while there was a roughly comparable number of incidents of public mass shootings that used either the most lethal (previously federally banned) weaponry or less lethal firearms not subject to the federal ban, the incidents involving assault weapons and/or high-capacity magazines were far more lethal. Specifically, the 18 public mass shootings conducted with the most lethal weapons killed 271 (roughly 15 deaths per episode), while the 14 public mass shootings with the less lethal firearms killed 81 (about 5.8 deaths per episode).

Figure 2

Victim Counts for Mass Public Shootings in the United States, 1985 - 2019
Using Assault Weapons and/or High-Capacity Magazines versus Other Firearms



in the last five year period, the 18 incidents with the more lethal weapons were far more deadly than the 14 incidents with the less lethal firearms.

26. One of the unfortunate consequences of the continuing advances in the lethality and power of modern firearms is that without appropriate government action the dangers posed by civilian weaponry will continue to outpace any

1 legitimate crime-reducing benefit that firearms might provide. The lesson of the
2 November 2017 massacre at the Sutherland Springs Baptist Church in Texas
3 highlights the growing dangers. The killer in that case used an AR-15 that was
4 modified to include a laser scope and features that could allow large capacity
5 magazines to be more quickly reloaded to maintain a relentless barrage. The killer
6 stood outside the church and fired straight through the walls of the church as he
7 strafed along at just above the top of the levels of the church pews, allowing him to
8 shoot 254 shots from **outside** the church in a matter of minutes on his way to killing
9 26 men, women, and children. No bearable weapon in civilian hands at the time of
10 the adoption of the Second Amendment could possibly generate this degree of
11 destruction. The evident social harms will only grow as gun technology increases
12 firearm lethality.

13 27. My 2019 Report explained that the increase in gun massacre incidents
14 and fatalities closely tracks the growth in the U.S. of assault weapons sales, the
15 removal of potential liability on the part of gun merchants, and intense advertising
16 of the militarized upgrades, from high-capacity magazines to flash suppressors and
17 other tactical accessories, which has only continued since my declaration. Research
18 published following the mass shootings in Buffalo, New York and Uvalde, Texas
19 killing a total of 31 in May 2022 further confirms these findings.¹⁰ Specifically, an
20 analysis of mass shooting data by a group of injury epidemiologists and trauma
21 surgeons reached the following conclusion:

22 We calculated that the risk of a person in the U.S. dying in a mass
23 shooting was 70% lower during the period in which the assault weapons
24 ban was active. The proportion of overall gun homicides resulting from

25 ¹⁰ Klein, Michael, 2022, Did the assault weapons ban of 1994 bring down
26 mass shootings? Here's what the data tells us, *The Conversation*, June 8, 2022,
27 [https://theconversation.com/did-the-assault-weapons-ban-of-1994-bring-down-](https://theconversation.com/did-the-assault-weapons-ban-of-1994-bring-down-mass-shootings-heres-what-the-data-tells-us-184430)
28 [mass-shootings-heres-what-the-data-tells-us-184430](https://theconversation.com/did-the-assault-weapons-ban-of-1994-bring-down-mass-shootings-heres-what-the-data-tells-us-184430).

mass shootings was also down, with nine fewer mass-shooting-related fatalities per 10,000 shooting deaths.¹¹

II. LEGISLATIVE EFFORTS TO RESTRICT ASSAULT WEAPONS REDUCE MASS SHOOTING DEATHS AND CASUALTIES

28. Table 1 provides an original econometric analysis of *Mother Jones* mass shootings data from 1982-2019 to assess empirically whether assault weapons bans at the state and federal level have limited mass shootings deaths and overall casualties. This analysis reveals that such bans do generate statistically significant reductions in mass shooting deaths and casualties.

29. This panel data analysis simultaneously examines data from all 50 states and the District of Columbia from 1982-2019 to ascertain what happens when federal or state bans on assault weapons and/or high-capacity magazines go into effect or are eliminated. The statistical model specifically controls for national influences on mass shootings that occur each year (“year effects”) as well as the stable differences in mass shooting rates across states (“state effects”).¹² This panel data model also controls for a variety of criminal justice, socio-economic, and demographic factors that could also influence violent crime.¹³

30. Table 1 indicates that having an assault weapon ban (whether at the state or federal level) and/or high-capacity magazine ban in place in a given state is

¹¹ *Id.*

¹² This is a population-weighted, state-level two-way fixed effects regression.

¹³ The controls include the lagged incarceration rate in each state for each year, the lagged police employee rate, real per capita personal income, the unemployment rate, poverty rate, beer consumption, the percentage of the population living in MSAs, and six demographic variables (based on different age-sex-race categories). This statistical model is described in greater details in Donohue, John, Abhay Aneja, and Kyle Weber, “Right-to-Carry Laws and Violent Crime: A Comprehensive Assessment Using Panel Data and a State-Level Synthetic Control Analysis” *Journal of Empirical Legal Studies*, April 2019, <https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12219>.

associated with a statistically significant decrease in per capita rates of deaths and casualties due to mass shootings.¹⁴ Overall, this analysis serves to further reinforce and expand upon earlier findings that bans on assault weapons and high-capacity magazines save lives.

Table 1

The Effect of Assault Weapon and High-Capacity Magazine Bans on Mass Shootings, 1982-2019

	Mass Shooting ^a Incidents per 10,000,000 Population	Mass Shooting Deaths per 1,000,000 Population	Mass Shooting Injuries per 1,000,000 Population	Mass Shooting Casualties ^b per 1,000,000 Population
Assault Weapon or High-Capacity Magazine Ban ^c	-.07 (0.05)	-.09** (0.04)	-.22* (0.12)	-.31** (0.15)

Notes: Outcome variables are based on *Mother Jones'* database of mass shootings in the 50 states plus Washington DC from 1982 to 2019. The OLS regressions also included the socioeconomic control variables used in DAW 2019 as well as state and year fixed effects. The coefficients on these variables were omitted from this table to conserve space. Regressions are weighted by each state's 1999 population, and standard errors are clustered at the state level.

^a Mass shootings are defined as attacks in public places in which four or more victims were killed.

^b Casualties are defined as people who were either injured or killed during a mass shooting.

^c The variable "Assault Weapon or High-Capacity Magazine Ban" is assigned a value of 1 for each state-year for which either an assault weapon ban or high-capacity magazine ban was active, and 0 for all other state-years.

* p<0.1; ** p<0.05; *** p<0.01

III. INTERNATIONAL EFFORTS TO ADDRESS ASSAULT WEAPONS AND MASS SHOOTINGS

31. I noted in my 2019 Report that Australia had banned assault weapons back in 1996. New Zealand followed the Australian lead after a horrific mass

¹⁴ The model also suggests that these gun safety restrictions suppress the rate of mass shooting incidents and injuries, although the evidence is statistically weaker for these dependent variables although the injury-alone effect is statistically significant at the .10 level.

1 murder with an assault rifle,¹⁵ and Canada just announced in May 2022 its plans for
2 a similar gun buyback for its current stock of assault weapons after its own
3 horrendous mass shooting prompted the enactment of a ban on assault weapons in
4 2020.¹⁶ Tellingly, in announcing an array of stringent gun safety measures,
5 Canadian Prime Minister Justin Trudeau showed that he has learned from the
6 lamentable experience of mass killings in the United States: “We need only look
7 south of the border to know that if we do not take action, firmly and rapidly, it gets
8 worse and worse and more difficult to counter.”¹⁷

9 **IV. THREATS TO CIVIL PEACE AND TO DEMOCRACY ITSELF**

10 32. There is also a larger issue at stake with the proliferation of assault
11 weapons: their capacity to facilitate political violence and threaten American
12 democracy. The concern is heightened by the sharp rise in the percentage of
13 Americans who think that violence against the government could be appropriate,
14
15

16 ¹⁵ Associated Press, “New Zealanders hand in 50,000 guns after assault
17 weapon ban,” Dec. 21, 2019, <https://www.nbcnews.com/news/world/new-zealanders-hand-50-000-guns-after-assault-weapon-ban-n1106081> (“The
18 government banned the most lethal types of semi-automatic weapons less than a
19 month after a lone gunman in March [2019] killed 51 worshippers at two
20 Christchurch mosques. The police then launched a six-month program to buy the
newly banned weapons from owners.”).

21 ¹⁶ The Prime Minister also announced that magazine size would be restricted
22 to five rounds in long guns. Justin Trudeau, “Further strengthening our gun control
23 laws,” (May 30, 2022), <https://pm.gc.ca/en/news/news-releases/2022/05/30/further-strengthening-our-gun-control-laws>; Amanda Coletta, “Canada vows to ‘freeze’
24 handgun sales, buy back assault-style weapons,” *The Washington Post* (May 30,
25 2022)(“[T]he government banned 1,500 makes and models of “military-style
26 assault weapons” in 2020, after a gunman posing as a police officer charged across
rural Nova Scotia, killing 22 people, including a Royal Canadian Mounted Police
officer, in the country’s deadliest mass shooting.”).

27 ¹⁷ Ian Austen and Vjosa Isai, “Canada Plans to Ban Handgun Sales and
28 Possession of Assault Weapons,” *N.Y. Times*, May 30, 2022,
<https://www.nytimes.com/2022/05/30/world/canada/canada-gun-buyback.html>.

1 which doubled from 16 percent in 2010 to 34 percent in 2021 (over 40 percent of
2 Republicans and independents and 23 percent of Democrats agreed).¹⁸

3 33. The extent and severity of these concerns have been clarified by the
4 events surrounding the “Stop the Steal” rally of January 6, 2021, which I have
5 written elsewhere has provided new insight into the dangers of such weaponry and
6 the utter folly of many of the claims of the gun lobby:

7 Consider the gun lobby protestation that “Gun control simply doesn’t
8 work.” Imagine for a moment what that rally would have looked like in
9 Houston, Texas, or some other “gun-friendly” jurisdiction. Without
10 Washington, DC’s profoundly wise firearm restrictions [including its
11 assault weapons ban], a very large number of the rioters would have been
12 marching on the U.S. Capitol armed with assault rifles equipped with
13 high-capacity magazines and other highly lethal weapons. When the
14 mob storming the Capitol spun out of control, guns would have been
15 flashing everywhere, and it is not hard to imagine that bullets would have
16 been cutting down scores or even hundreds of victims. Those who
17 remember the 1970 Kent State massacre understand that once the bullets
18 start flying in a riotous atmosphere, the consequences quickly turn lethal
19 and dire....

20 The pernicious Proud Boys leader Enrique Tarrio [now under indictment
21 for seditious conspiracy],¹⁹ who had planned to address the crowd before
22 the U.S. Capitol riot, was thankfully taken off the streets two days earlier
23 when he was arrested for tearing down a Black Lives Matter banner on a
24 Washington, DC, church and lighting it on fire. At the time of his arrest,
25 Tarrio was carrying two high-capacity magazines festooned with the
26 Proud Boys logo. Washington, DC’s wise prohibition on such
27 unnecessary accoutrements to lethal weaponry managed to keep one
28 conspiring criminal away from the U.S. Capitol on January 6, and
thousands of others, knowing of Washington, DC’s strict gun laws, were
dissuaded from carrying weapons because of these laws.

23 ¹⁸ Meryl Kornfield and Mariana Alfaro, “1 in 3 Americans say violence
24 against government can be justified, citing fears of political schism, pandemic,”
25 *Washington Post*, Jan. 1, 2022,
<https://www.washingtonpost.com/politics/2022/01/01/1-3-americans-say-violence-against-government-can-be-justified-citing-fears-political-schism-pandemic/>.

26 ¹⁹ Spencer Hsu, “Proud Boys leader Tarrio, 4 top lieutenants charged with
27 seditious conspiracy in widening Jan 6 case”, *Washington Post*, June 6, 2022,
28 <https://www.washingtonpost.com/dc-md-va/2022/06/06/tarrio-proud-boys-seditious-conspiracy/>.

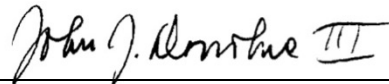
1 [Moreover, the claim that assault weapons could protect American
2 democracy is fanciful.] First, the thought that private gun owners could
3 stand up to the modern U.S. military if it backed a tyrannical federal
4 government is absurd. There is no circumstance in which private citizens
5 in modern America could promote democracy by using assault weapons
6 to kill government employees to show their disapproval of what they
7 perceive to be a “tyrannical” government. Second, the idea that gun
8 owners can be expected to *oppose* rather than support the tyrant was dealt
9 a fatal blow by the violence at the U.S. Capitol.²⁰

10 CONCLUSION

11 As discussed in my 2019 Report, the problem of mass shootings in the United
12 States is growing worse and is exacerbated by the ready availability of assault
13 weapons. Additional information gathered since my declaration only serves to
14 reinforce those opinions.

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

16 Executed on January 2, 2022 at Stanford, California.

17 

18 John J. Donohue

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27 ²⁰ John Donohue, “Will the Supreme Court Avoid Further Self-Inflicted
28 Second Amendment Wounds?” Brennan Center for Justice (June 2021),
https://www.brennancenter.org/sites/default/files/2021-06/Donohue_final.pdf.

EXHIBIT A

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EMPLOYMENT

Full-time Positions

- Stanford Law School, C. Wendell and Edith M. Carlsmith Professor of Law, September 2010 to the present.
- Yale Law School, Leighton Homer Surbeck Professor of Law, July 2004 to August 2010.
- Stanford Law School, Professor of Law, September 1995 to June 2004.
 - William H. Neukom Professor of Law, February 2002 – June 2004.
 - John A. Wilson Distinguished Faculty Scholar, March 1997 – January 2002.
 - Academic Associate Dean for Research, since July 2001 – July 2003.
 - Stanford University Fellow, September 2001 – May 2003.
- Northwestern University School of Law:
 - Class of 1967 James B. Haddad Professor of Law, September 1994-August 1995
 - Harry B. Reese Teaching Professor, 1994-1995
 - Professor of Law, May 1991-September 1994
 - Associate Professor, May 1989-May 1991
 - Assistant Professor, September 1986-May 1989.
- Research Fellow, American Bar Foundation, September 1986-August 1995.
- Associate Attorney, Covington & Burling, Washington, D.C., October 1978-July 1981 (including last six months as Attorney, Neighborhood Legal Services)
- Law Clerk to Chief Justice T. Emmet Clarie, U.S. District Court, Hartford, Connecticut, September 1977-August 1978.

Temporary Appointments

- Affiliated Research Professor, American Bar Foundation, September 2020 – August 2025.
- Visiting Professor, Tel Aviv University School of Law, May 2022.
- Lecturer on the Economics of Crime, Bogota Summer School in Economics, Universidad del Rosario, Bogota, Colombia, June 2020.
- Visiting Professor, Bocconi University, Milan, Italy, October- November 2012, April 2014, and June 2015.
- 2011 Faculty Scholar in Residence, University of Denver Sturm College of Law, April 21-22, 2011.

- Visiting Fellow, The Milton Friedman Institute for Research in Economics, University of Chicago, October 2009.
- Schmidheiny Visiting Professor of Law and Economics, St. Gallen University, November – December, 2007.
- Visiting Lecturer in Law and Economics, Gerzensee Study Center, Switzerland, June 2007.
- Visiting Professor, Tel Aviv University School of Law, May 2007.
- Herbert Smith Visitor to the Law Faculty, University of Cambridge, England, February 2006.
- Visiting Professor, Harvard Law School, January 2003.
- Fellow, Center for Advanced Studies in the Behavioral Sciences, Stanford, California, Academic year 2000-01.
- Visiting Professor, Yale Law School, Fall, 1999.
- Professor, Center for the Study of American Law in China, Renmin University Law School, Beijing, July 1998.
- Visiting Professor of Law and Economics, University of Virginia, January 1997.
- Lecturer, Toin University School of Law, Yokohama, Japan, May-June 1996.
- Cornell Law School, Distinguished Visiting Fellow in Law and Economics, April 8-12, 1996 and September 25-29, 2000
- Visiting Professor, University of Chicago Law School, January 1992-June 1992.
- Visiting Professor of Law and Economics, University of Virginia Law School, January 1990-May 1990.
- Fellow, Yale Law School Program in Civil Liability, July 1985-August 1986.
- Private Practice (part-time), New Haven, Connecticut, September 1981-August 1986.
- Instructor in Economics, Yale College, September 1983-August 1985.
- Summer Associate, Donovan Leisure Newton & Irvine, New York, Summer 1982.
- Summer Associate, Perkins, Coie, Stone, Olsen & Williams, Seattle, Washington, Summer 1976.
- Research Assistant, Prof. Laurence Lynn, Kennedy School of Government, Harvard University, Summer 1975.
- LSAT Tutor, Stanley Kaplan Education Center, Boston, Massachusetts; Research Assistant, Prof. Philip Heymann, Harvard Law School; Research Assistant, Prof. Gordon Chase, Harvard School of Public Health. (During Law School).

EDUCATION

Yale University, 1981-1986

- University Fellow in Economics; M.A. 1982, M. Phil. 1984, Ph.D. 1986.
 - Dissertation: "A Continuous-Time Stochastic Model of Job Mobility: A Comparison of Male-Female Hazard Rates of Young Workers." Awarded with Distinction by Yale.
 - Winner of the Michael E. Borus Award for best social science dissertation in the last three years making substantial use of the National Longitudinal Surveys--awarded by the Center for Human Research at Ohio State University on October 24, 1988.
- National Research Service Award, National Institute of Health.
- Member, Graduate Executive Committee; Graduate Affiliate, Jonathan Edwards College.

Harvard Law School, 1974-1977 (J.D.)

- Graduated Cum Laude.

- Activities: Law Clerk (Volunteer) for Judge John Forte, Appellate Division of the District Court of Central Middlesex; Civil Rights, Civil Liberties Law Review; Intra-mural Athletics; Clinical Placement (Third Year): (a) First Semester: Massachusetts Advocacy Center; (b) Second Semester: Massachusetts Attorney General's Office--Civil Rights and Consumer Protection Divisions. Drafted comments for the Massachusetts Attorney General on the proposed U.S. Department of Justice settlement of its case against Bechtel Corporation's adherence to the Arab Boycott of Israeli companies.

Hamilton College, 1970-1974 (B.A.)

- Departmental Honors in both Economics and Mathematics
 - Phi Beta Kappa (Junior Year)
- Graduated fourth in class with the following academic awards:
 - Brockway Prize (Highest GPA Freshman Year)
 - Edwin Huntington Memorial Mathematical Scholarship
 - Fayerweather Prize Scholarship
 - Oren Root Prize Scholarship in Mathematics
- President, Root-Jessup Public Affairs Council.

PUBLICATIONS

Books and Edited Volumes:

- Law and Economics of Discrimination, Edward Elgar Publishing, 2013.
- Employment Discrimination: Law and Theory, Foundation Press, 2005, 2021 (5th edition) (with George Rutherglen).
- Economics of Labor and Employment Law: Volumes I and II, Edward Elgar Publishing, 2007. http://www.elgar.co.uk/bookentry_main.lasso?id=4070
- Foundations of Employment Discrimination Law, Foundation Press, 2003 (2d edition).
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Book Chapters:

- "Drug Prohibitions and Its Alternatives." Chapter 2 in Cook, Philip J., Stephen Machin, Olivier Marie, and Giovanni Mastrobuoni, eds, *Lessons from the Economics of Crime: What Reduces Offending?* MIT Press. 45-66 (2013).
- "The Death Penalty" Chapter in Encyclopedia of Law and Economics, Spring (2013) and in Alain Marciano & Giovanni Battista Ramello eds., Encyclopedia of Law and Economics (2019).
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- "The Impact of Concealed Carry Laws" in Jens Ludwig and Philip Cook, Evaluating Gun Policy: Effects on Crime and Violence (Washington D.C.: Brookings, 2003).

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WORKSHOPS AND ADDRESSES:

- “Can We Get Strong Gun Safety Legislation Passed?” Vi Seminar, **Palo Alto, CA**, July 18, 2022.
- Panelist, “Inside the Brain of the Mass Shooter and the Impact of Their Criminal Behavior,” Symposium on “The Law and Neuroscience of Mass Shootings,” held virtually at Fordham Law School, November 1, 2022.
- “*Bruen*, Permissive Gun Carrying, Constitutional Law, and Violent Crime,” Faculty Workshop, **Stanford Law School**, July 13, 2022.
- “Effectiveness of Permissive Gun Laws: Carry Laws, Stand Your Ground,” Annals Authors’ Conference, **University of Connecticut**, Hartford, April 7, 2022.
- “Permissive Gun Carrying Laws and Violent Crime,” ETH, Zurich, April 6, 2022; Law and Economics Workshop, **Tel Aviv University School of Law**, May 11, 2022.
- “Guns and Crime in American Life and Law,” **University of Zurich**, April 5, 2022.
- “Do Permissive Gun Carrying Laws Increase Violent Crime?” Applied Webinar at the **Sao Paulo School of Economics**, November 17, 2021.
- “Mass Shootings, Gun Laws and the Evolution of the Second Amendment – Where Do We Go from Here?” Minnesota Continuing Legal Education Webcast, November 2, 2021.
- Discussant of Richard Berk, “Firearm Sales in California Through the Myopic Vision of an Interrupted Time Series Causal Analysis,” Online Causal Inference Seminar, **Stanford University**, April 6, 2021.
- “The Impact of Legalized Abortion on Crime over the Last Two Decades,” American Law and Economics Association Meetings, **NYU School of Law**, May 18, 2019; Department of Economics, **University of California, Irvine**, October 13, 2020; **Harvard Kennedy School** Program in Inequality and Social Policy, March 22, 2021; Crime Seminar, **Northwestern Law School**, March 3, 2022.
- Discussant of Chika Okafor, “Prosecutor Politics: The Impact of Election Cycles on Criminal Sentencing in the Era of Rising Incarceration,” **Harvard Kennedy School** Program in Inequality and Social Policy, March 22, 2021.
- “Guns and Crime,” Economic Analysis of Crime course, **Bocconi University**, Dept. of Social and Political Sciences, March 8, 2021.
- Discussant, “How the Massachusetts assault weapons ban enforcement notice changed firearm sales,” Firearms and Policy session, **Assoc. for Public Policy Analysis and Management (APPAM) Virtual Fall Research Conference**, November 12, 2020.
- “We Must Confront the Threats to America’s Democracy,” Idaho Law Review Election Law Symposium, **University of Idaho College of Law**, October 20, 2020.
- “The Impact of Legalized Abortion on Crime over the Last Two Decades,” Department of Economics, **University of California, Irvine**, October 13, 2020.
- “The Death Penalty: Informing Policy Through Empirical Research,” Program in Criminal Law and Policy, **University of Arizona College of Law**, October 6, 2020.
- Discussant, “Mandatory Retirement Improved Performance on State Supreme Courts,” Law and Economics Session, **NBER Summer Institute**, July 22, 2020.

- Discussant, “Measuring Racial Discrimination in Bail Decisions,” Crime Session, **NBER Summer Institute**, July 15, 2020.
- “Guns and Empirical Evidence in Second Amendment Litigation,” **Columbia Law School**, March 24, 2020; **Yale Law School**, March 25, 2020 (Zoom Presentation).
- Panelist, “Guns, Schools, and Adolescents: A Disaster Waiting to Happen,” Psychiatry Grand Rounds,
- Sapp Center for Science Teaching and Learning, **Stanford University School of Medicine**, February 20, 2020.
- “The Power of Data to Change Hearts, Minds, and Public Policy,” Law and Policy Lab, **Stanford Law School**, February 13, 2020.
- “The Move to ‘Guns Everywhere’,” Inaugural Cooter-Rubinfeld Lecture, **University of California, Berkeley, Law School**, February 6, 2020.
- “The Swerve: A Legal and Empirical Evaluation of the Move to ‘Guns Everywhere,’” Law and Economic Studies Workshop, **Columbia Law School**, September 23, 2019; Conference on Gun Rights and Regulations Outside the Home, **Duke Law School**, September 27, 2019.
- “Evidence to Guide Gun-related Public Policy,” Conference on Gun Violence Epidemic, **Stanford Medical School**, September 16, 2019; Lecturer, Physicians and Social Responsibility Course, **Stanford Medical School**, October 7, 2019; Lecturer, Data Science Course, **Department of Statistics, Stanford University**, November 1, 2019.
- “The Legal and Political Battle over Gun Policy in America,” **Hamilton College**, June 7, 2019.
- “Impact of Right to Carry Laws on Violent Crime,” Public Policy colloquium, **Stanford Economics Department**, January 22, 2018; SPILS Methods Workshop, **Stanford Law School**, January 25, 2018; Quantlaw, **University of Arizona Law School**, March 2, 2018; Stanford/Berkeley Causal Inference Conference, **Stanford Graduate School of Business**, April 23, 2019; **Baldy Center/Law School Distinguished Speaker Series**, University at Buffalo School of Law, May 3, 2019; Conference on “Synthetic Controls and Related Methods,” **Institute for Data, Systems, and Society, MIT**, May 21, 2019.
- “Guns, Abortion, and the Death Penalty: Informing Policy Through Empirical Research,” Politics and Public Policy Lecture Series, **Stanford University**, April 1, 2019.
- “Dangers of Guns Carried Outside the Home for Protection,” **GVPedia Conference**, Denver, Colorado, April 6, 2019.
- “Understanding California’s Red Flag Law: How to Remove Guns from People Who Are a Threat to Themselves or Others,” **Stanford Law School**, February 12, 2019.
- “Guns and Crime: Current Empirical and Legal Debates,” **Fellowship Forum**, January 22, 2019.
- “Gun Policy in America at a Critical Juncture,” SAFE, **Stanford Medical School**, September 17, 2018.
- “Empirical Evaluation of Law and Policy: The Battle for Truth,” **Woodside Rotary Club**, September 12, 2018.
- “Discussing America’s Second Amendment,” **San Jose Museum of Quilts & Textiles**, July 15, 2018.
- “The Legal Battle to End the Death Penalty in Connecticut,” **Law School of the University of Reggio Calabria**, Italy, June 15, 2018.
- Panelist, “Newtown and Gun Violence in the US, Humanity is Indivisible Series, **Stanford University**, May 31, 2018.
- “Gun Policy In California and the US,” Human Rights Seminar; **Stanford Medical School**, May 29, 2018.

- "Gun Policy in the Wake of Parkland," Sigma Alpha Epsilon Leadership Speaker Series, **Stanford Law School**, March 13, 2018; Stanford in Government event, Haas Center, **Stanford University**, April 20, 2018.
- Panelist, Town Hall Meeting on Gun Violence with Congresswoman Jackie Speier, **Burlingame High School**, April 14, 2018.
- Moderator, In Studio Conversation with Berkeley Law School Dean Erwin Chemerinsky: "Defining the Limits of Free Speech," **Palo Alto League of Women's Voters**, March 27, 2018. <https://youtu.be/cqHEIAVoTLY>
- "More than Thoughts & Prayers," **American Constitution Society** and the **Federalist Society, U.C. Hastings School of Law**, March 14, 2018.
- Panelist, "Addressing Gun Violence," **American Constitution Society**, Stanford Law School, March 8, 2018.
- Panelist, "Public Carry: Defending Against Efforts to Expand Carry Laws," **National Gun Violence Prevention Meeting**, Washington, D.C., October 18, 2017.
- "Keynote Presentation: Right-to-Carry Laws and Violent Crime," Second Amendment Litigation & Jurisprudence Conference, **The Law Center to Prevent Gun Violence**, October 16, 2017.
- "The Latest Evidence on Abortion Legalization and Crime," Conference on Empirical Legal Studies, **Cornell University**, October 13, 2017.
- "Comey, Trump, and the Puzzling Pattern of Crime in 2015 and Beyond," **University of Texas School of Law and Economics Seminar**, April 24, 2017, Faculty Workshop, **UC Davis School of Law**, April 10, 2017; Law and Social Science Seminar, **Texas A&M University School of Law**, March 6, 2017; Quantlaw, **University of Arizona Law School**, February 17, 2017.
- Debate with Kent Scheidegger on Capital Punishment, Philosophy of Punishment Seminar, **JFK University School of Law**, March 18, 2017.
- "The Evidence on Guns and Gun Laws," **Federal Bar Council Program on Guns and Gun Laws -- Rancho Mirage**, California, February 23, 2017.
- "Guns, Crime and Race in America," Stanford's Center for Population Health Sciences, **Stanford Medical School**, October 17, 2016.
- "Evaluating the Death Penalty," Forum on California Propositions 62 and 66, **Stanford Law School**, September 14, 2016.
- "Empirical Analysis and the Fate of Capital Punishment," Colloquium, Presley Center for Crime and Justice Studies; **University of California, Riverside**, October 24, 2016.
- "Gun Violence and Mental Illness," Department of Psychiatry, **Stanford University**, August 25, 2016.
- "The Battle Over Gun Policy In America," Physicians and Social Responsibility" seminar; **Stanford Medical School**, October 3, 2016; **Bioethics Committee of the San Mateo County Medical Association**, April 27, 2016; **The League of Women Voters of Palo Alto**, April 19, 2016; Human Rights and Health Seminar, **Stanford University**, April 12, 2016; Bechtel International Center, **Stanford University**, February 23, 2016; Stanford in Government Seminar, Haas Center, **Stanford University**, February 2, 2016.
- American Economic Association Continuing Education Course "The Economics of Crime" (with Jens Ludwig), **AEA Annual Meeting**, San Francisco, January 5-7, 2016.
- "Race and Arbitrariness in the Connecticut Death Penalty," **University of Connecticut School of Law**, Nov. 20, 2015.

- “*Connecticut v. Santiago* and the Demise of the Connecticut Death Penalty,” Faculty Workshop, **Stanford Law School**, August 19, 2015.
- “Do Handguns Make Us Safer? A State-Level Synthetic Controls Analysis of Right-to-Carry Laws,” Second Amendment Conference, **Covington and Burling, New York**, May 14, 2015; **NBER Summer Institute**, Cambridge, MA, July 23, 2015; Faculty Workshop, **Stanford Law School**, November 11, 2015.
- “U.S. Criminal Justice Under Siege : Will Becker or Beccaria Prevail?” Faculty Seminar, **Bocconi University School of Law, Milan, Italy**, June 18, 2015.
- “Can You Believe Econometric Evaluations of Law, Policy, and Medicine?” **Stanford Law School**, Legal Theory Workshop, March 1, 2007; Faculty Workshop, **Tel Aviv University School of Law**, May 14, 2007; Faculty Workshop, **University of Haifa Law School**, May 16, 2007; Law and Economics Workshop, **Georgetown Law School**, September 19, 2007; Law and Economics Workshop, **St. Gallen Law School**, Switzerland, November 29, 2007; and Yale Law School, February 25, 2008; Law and Economics Workshop, **Swiss Institute of Technology**, Zurich, Switzerland, May 21, 2008; Faculty Workshop, **University of Virginia Law School**, October 24, 2008; Plenary Session, Latin American and Caribbean Law and Economics Association, **Universitat Pompeu Fabra (Barcelona)**, June 15, 2009; **Google, Milan**, Italy, June 8, 2015.
- Commentator: ““Throw Away the Jail or Throw Away The Key? The Effect of Punishment on Recidivism and Social Cost,”” by Miguel F. P. de Figueiredo, American Law and Economics Association Meetings, **Columbia Law School**, May 15, 2015.
- “Broken Windows, Stop and Frisk, and Ferguson,” 2015 Justice Collaboratory Conference: Policing Post-Ferguson, **Yale Law School**, April 17, 2015.
- “Assessing the Development and Future of Empirical Legal Studies,” **Stanford Law School** course on Modern American Legal Thought, February 25, 2015.
- Commentator: “Payday Lending Restrictions and Crimes in the Neighborhood,” by Yilan Xu, 9th Annual Conference on Empirical Legal Studies, **Boalt Hall**, Berkeley, CA, November 7, 2014.
- “An Empirical Evaluation of the Connecticut Death Penalty Since 1973: Are There Unconstitutional Race, Gender and Geographic Disparities?” Faculty Workshop, **Economics Department, Rice University**, Houston, TX, Feb. 18, 2014; Law and Economics Workshop, **University of Virginia Law School**, September 11, 2014; Faculty Colloquium, **University of San Diego School of Law**, October 3, 2014.
- “What's Happening to the Death Penalty? A Look at the Battle in Connecticut,” **Hamilton College**, Clinton, New York, June 6, 2014.
- Panel Member, Research Methods Workshop, Conference for Junior Researchers on Law and Society, **Stanford Law School**, May 15, 2014.
- “Logit v. OLS: A Matter of Life and Death,” Annual Meeting of the American Law and Economics Association, **University of Chicago**, May 9, 2014.
- “Guns: Law, Policy, Econometrics,” Second Amendment Litigation and Jurisprudence Conference, **Jenner & Block**, Chicago, May 8, 2014.
- “The Impact of Antidiscrimination Law: The View 50 Years after the Civil Rights Act of 1964,” **Renaissance Weekend**, Liguna Niguel, CA, Feb. 15, 2014.
- “Concealed Carry and Stand Your Ground Law,” **Renaissance Weekend**, Liguna Niguel, CA, Feb. 15, 2014.
- “Reducing Gun Violence,” Forum on Gun Violence Reduction, **Mountainview City Hall**, Mountainview, CA, Feb. 8, 2014.

- "Gun Policy Debate," **C-SPAN**. National Cable Satellite Corporation, Jan. 16, 2014. <<http://www.c-span.org/video/?317256-1/GunPoli>>.
- "Trial and Decision in the Connecticut Death Penalty Litigation," Faculty Workshop, **Stanford Law School**, November 20, 2013.
- "Rethinking America's Illegal Drug Policy," Law and Economics Workshop, **Harvard Law School**, April 20, 2010; NBER Conference, "Economical Crime Control," **Boalt Hall**, Berkeley, CA, January 16, 2010; **NBER Summer Institute** Pre-Conference "Economical Crime Control," July 23, 2009; **Whitney Center** Lecture Series, Hamden, CT, October 5, 2009; Law and Economics Workshop, **University of Chicago Law School**, October 13, 2009; Seminar for Spanish Law Professors, **Harvard Law School**, October 23, 2009; The Criminal Law Society, **Stanford Law School**, March 31, 2011, **University of Denver Sturm College of Law**, April 21, 2011; Law and Economics Workshop, **Boalt Hall**, Berkeley, CA, October 17, 2011; Shaking the Foundations Conference, **Stanford Law School**, November 2, 2013.
- "The Challenge to the Connecticut Death Penalty," **Yale Law School**, Death Penalty Clinic, November 5, 2007; Graduate Student Seminar, November 11, 2009; Stanford Program in International Legal Studies Seminar, **Stanford Law School**, Nov. 11, 2010; Faculty Workshop, **Stanford Law School**, June 8, 2011; Faculty workshop, **Duke Law School**, April 13, 2012; Program on Public Policy, **Stanford University**, May 2, 2012; Annual Meeting of the American Law and Economics Association, **Vanderbilt Law School**, Nashville, TN, May 18, 2013; Faculty Workshop, **University of Arizona Law School**, October 17, 2013; 8th Annual Conference on Empirical Legal Studies, **University of Pennsylvania Law School**, October 26, 2013.
- Commentator: "How to Lie with Rape Statistics" by Corey Rayburn Yung, 8th Annual Conference on Empirical Legal Studies, **University of Pennsylvania Law School**, October 2013.
- "An Empirical Look at Gun Violence in the U.S." **University of Arizona Law School**, October 17, 2013
- Discussant, "Sex Offender Registration and Plea Bargaining," **NBER Labor Summer Institute**, Cambridge, MA, July 25, 2013.
- "What Works in the War Against Crime?" **Renaissance Weekend**, Jackson Hole, Wyoming, July 5, 2013.
- Seminar Presentation, "Statistics and the Streets – Curbing Crime, Realities of the Death Penalty, and Successes in Public Safety," **Renaissance Weekend**, Jackson Hole, Wyoming, July 5, 2013.
- Flashes of Genius (Glimpses of Extra-ordinarily Novel Thinking) -- "Stemming Gun Violence," **Renaissance Weekend**, Jackson Hole, Wyoming, July 5, 2013.
- "Can Laws Reduce Crime?" Safe Oakland Speakers Series, Holy Names University, Oakland, CA, May 1, 2013, <http://www.ustream.tv/channel/safe-oakland-speaker-series>
- Presentation on "The Death Penalty in America" on a panel on "human rights and criminal justice systems in the world," Science for Peace conference at Bocconi University in Milan, Italy, November 15, 2012. <http://www.fondazioneveronesi.it/scienceforpeace2012/>
- Seminar Presentation, "America's Criminal Justice System," **Renaissance Weekend**, Santa Monica, CA., Feb. 19, 2012.
- "Statistical Inference, Regression Analysis and Common Mistakes in Empirical Research," SPILLS Fellow's Workshop, **Stanford Law School**, February 2, 2012.
- "New Evidence in the 'More Guns, Less Crime' Debate: A Synthetic Controls Approach," Conference on Empirical Legal Studies, **Northwestern Law School**, November 4, 2011.

- "Drug Legalization and its Alternatives," *Lessons from the Economics of Crime: What Works in Reducing Offending?* **CESifo Venice Summer Institute Workshop**, July 22, 2011.
- "Incapacitating Addictions: Drug Policy and American Criminal Justice," in Rethinking the War on Drugs through the US-Mexico Prism," **Yale Center for the Study of Globalization**, May 12, 2011.
- Plenary Session: Flashes of Genius (Glimpses of Extra-ordinarily Novel Thinking) -- "Has Legalized Abortion Reduced Crime?" **Renaissance Weekend**, Liguna Niguel, CA., Feb. 18, 2011.
- "An Evidence-Based Look at the More Guns, Less Crime Theory (after Tucson)" The American Constitution Society for Law and Policy (ACS), **Stanford Law School**, January 25, 2011; **Renaissance Weekend**, Liguna Niguel, CA., Feb. 19, 2011; "Faculty Forum" at the External Relations Office, **Stanford Law School**, April 5, 2011.
- "Empirical Evaluation of Law: The Dream and the Nightmare," SPILS Fellows Lecture, **Stanford Law School**, January 15, 2015; Legal Studies Workshop, **Stanford Law School**, Feb. 7, 2011; **Renaissance Weekend**, Liguna Niguel, CA., Feb. 20, 2011; **University of Denver Sturm College of Law**, April 22, 2011; Presidential Address, Annual Meeting of the American Law and Economics Association, **Columbia University**, May 20, 2011.
- Death Sentencing in Connecticut," **American Society of Criminology Annual Meeting**, San Francisco, Nov. 17, 2010.
- "The Impact of Right to Carry Laws and the NRC Report: Lessons for the Empirical Evaluation of Law and Policy," Conference on Empirical Legal Studies, **Yale Law School**, Nov. 6, 2010.
- Comment on Bushway and Gelbach, "Testing for Racial Discrimination in Bail Setting Using Nonparametric Estimation of a Parametric Model," Conference on Empirical Legal Studies, **Yale Law School**, Nov. 6, 2010.
- Commentator, "A Test of Racial Bias in Capital Sentencing," **NBER Political Economy Program Meeting**, April 23, 2010.
- "The (Lack of a) Deterrent Effect of Capital Punishment," Faculty Workshop, **University of Chicago Economics Department**, October 21, 2009.
- Keynote Address, "The Evolution of Econometric Evaluation of Crime and Deterrence," 1st Paris& Bonn Workshop on Law and Economics: The Empirics of Crime and Deterrence, **University of Paris Ouest Nanterre**, September 24, 2009.
- Comment on Cook, Ludwig, and Samaha, "Gun Control after *Heller*: Litigating Against Regulation," NBER Regulation and Litigation Conference, **The Boulders**, Carefree, Arizona, September 11, 2009.
- "Impact of the Death Penalty on Murder in the US," Faculty Workshop, Law School, **Universitat Pompeu Fabra (Barcelona)**, June 18, 2009.
- Comment on Joanna Shepherd's "The Politics of Judicial Opposition," Journal of Institutional and Theoretical Economics Conference, **Kloster Eberbach, Germany**, June 12, 2009.
- "The Great American Crime Drop of the '90s: Some Thoughts on Abortion Legalization, Guns, Prisons, and the Death Penalty," **Hamilton College**, Clinton, NY, June 5, 2009.
- "The Impact of the ADA on the Employment and Earnings of the Disabled," **American Law and Economics Association Meetings**, University of San Diego, May 15, 2009.
- "Crime and Punishment in the United States," **Eastern State Penitentiary, Yale Alumni Event**, Philadelphia, PA, April 26, 2009.

- “Measuring Culpability in Death Penalty Cases,” Conference on Applications of Economic Analysis in Law, **Fuqua School of Business, Duke University**, April 18, 2009.
- “Autopsy of a Financial Crisis,” Workshop on New International Rules and Bodies for Regulating Financial Markets, **State University of Milan**, March 23, 2009.
- “Yet Another Refutation of the More Guns, Less Crime Hypothesis – With Some Help From Moody and Marvell, Law and Economics Workshop, **NYU Law School**, March 10, 2009.
- Intelligence-Squared Debate: “Guns Reduce Crime,” **Rockefeller University**, New York, October 28, 2008.
- “The D.C. Handgun Controls: Did the Supreme Court’s Decision Make the City Safer?” Debate, **The Contemporary Club of Albemarle**, Charlottesville, VA, October 23, 2008.
- “Evaluating the Empirical Claims of the Woman-Protective Anti-Abortion Movement,” Panel on The Facts of the Matter: Science, Public Health, and Counseling, Yale Conference on the Future of Sexual and Reproductive Rights, **Yale Law School**, October 11, 2008.
- “Empirical Evaluation of Gun Policy,” **Harvard Law School**, October 9, 2008.
- “Assessing the Relative Benefits of Incarceration: The Overall Change Over the Previous Decades and the Benefits on the Margin,” **Russell Sage Foundation**, New York, May 3, 2007; Law and Economics Workshop, **Tel Aviv University School of Law**, May 28, 2008.
- Death Penalty Debate with Orin Kerr, Bloggingheads, April 11, 2008.
- “Evaluating Connecticut’s Death Penalty Regime,” Faculty Public Interest Conversation, **Yale Law School**, April 9, 2008.
- “The Death Penalty in Connecticut and the United States,” **The Whitney Center**, Hamden, CT, November 5, 2007; Seminar on Advanced Criminal Law: Criminal Sentencing and the Death Penalty, **Fordham Law School**, April 8, 2008; Law and Economics Workshop, **Swiss Institute of Technology**, Zurich, Switzerland, May 20, 2008.
- Radio Interview, “The Death of Capital Punishment?” Morning Edition: Where We Live. WNPR. Connecticut, March 10, 2008.
- Comment on Thomas Dee’s “Born to Be Mild: Motorcycle Helmets and Traffic Safety,” **American Economics Association Meetings**, New Orleans, Louisiana, January 4, 2008.
- “The Empirical Revolution in Law and Policy: Jubilation and Tribulation,” **Keynote Address, Conference on Empirical Legal Studies, NYU Law School**, November 9, 2007.
- “The Optimal Rate of Incarceration,” **Harvard Law School**, October 26, 2007.
- “Empirical Evaluation of Law: The Impact on U.S Crime Rates of Incarceration, the Death Penalty, Guns, and Abortion,” Law and Economics Workshop, **St. Gallen Law School, Switzerland**, June 25, 2007.
- Comment on Eric Baumer’s “A Comprehensive Assessment of the Contemporary Crime Trends Puzzle,” Committee on Law and Justice Workshop on Understanding Crime Trends, **National Academy of Sciences**, Washington, D.C., April 25, 2007.
- Comment on Bernard Harcourt, Third Annual Criminal Justice Roundtable Conference, **Yale Law School**, “Rethinking the Incarceration Revolution Part II: State Level Analysis,” April 14, 2006.
- “Corporate Governance in America: The Disney Case,” **Catholic University Law School**, Milan, Italy, March 19, 2007.

- “The U.S Tort System,” (Latin American) Linkages Program, **Yale Law School**, February 13, 2007.
- Panel Member, “Guns and Violence in the U.S.,” **Yale University, International Center**, January 24, 2007.
- “Economic Models of Crime and Punishment,” Punishment: The U.S. Record: A Social Research Conference at **The New School**, New York City, Nov. 30, 2006
- Comment on Baldus et al, “Equal Justice and the Death Penalty: The Experience fo the United States Armed Forces, Conference on Empirical Legal Studies, **University of Texas Law School**, Austin, Texas, October 27, 2006.
- “Empirical Evaluation of Law: The Promise and the Peril,” **Harvard Law School**, October 26, 2006.
- “Estimating the Impact of the Death Penalty on Murder,” Law and Economics Workshop, **Harvard Law School**, September 12, 2006; Conference on Empirical Legal Studies, **University of Texas Law School**, October 28, 2006; Joint Workshop, Maryland Population Research Center and School of Public Policy, **University of Maryland**, March 9, 2007.
- “Why Are Auto Fatalities Dropping so Sharply?” **Faculty Workshop, Wharton**, Philadelphia, PA, April 19, 2006.
- “The Law of Racial Profiling,” Law and Economic Perspectives on Profiling Workshop, **Northwestern University Department of Economics**, April 7, 2006.
- “Landmines and Goldmines: Why It’s Hard to Find Truth and Easy To Peddle Falsehood in Empirical Evaluation of Law and Policy,” **Rosenthal Lectures, Northwestern University School of Law**, April 4-6, 2006.
- “The Impact of Legalized Abortion on Crime,” **American Enterprise Institute**, March 28, 2006.
- “The Impact of Damage Caps on Malpractice Claims: Randomization Inference with Difference-in-Differences,” **Conference on Medical Malpractice, The Rand Corporation**, March 11, 2006.
- “Powerful Evidence the Death Penalty Deters?” **Leighton Homer Surbeck Chair Lecture, Yale Law School**, March 7, 2006.
- “Uses and Abuses of Empirical Evidence in the Death Penalty Debate,” Faculty Workshop, **University of Connecticut Law School**, October 18, 2005; Faculty Workshop, **UCLA Law School**, February 3, 2006; Law and Economics Workshop, **Stanford Law School**, February 16, 2006; ; Law Faculty, **University of Cambridge, Cambridge, England**, February 28, 2006; **University of Illinois College of Law**, Law and Economics Workshop, March 2, 2006; Faculty Workshop, **Florida State University Law School**, March 30, 2006; **ALEA**, Berkeley, CA May 6, 2006; **University of Chicago Law School**, Law and Economics Workshop, May 9, 2006.
- “Is Gun Control Illiberal?” Federalist Society Debate with Dan Kahan at Yale Law School, January 31, 2006.
- “Witness to Deception: An Insider’s Look at the Disney Trial,” **2005-2006 Distinguished Lecture, Boston University School of Law**, November 10, 2005; Center for the Study of Corporate Law, **Yale Law School**, November 3, 2005; **Law Offices of Herbert Smith, London, England**, February 23, 2006; Law Faculty, **University of Cambridge, Cambridge, England**, February 27, 2006.
- “Understanding the Surprising Fall in Crime in the 1990s,” **Rotary Club**, Orange, CT, August 5, 2005; Faculty Workshop, **Yale School of Management**, September 21, 2005.
- Panel Member, “The Board's Role in Corporate Strategy,” The Yale Global Governance Forum, **Yale School of Management**, September 8, 2005.
- “Crime and Abortion,” **Museo de la Ciudad de Mexico**, Mexico City, October 20, 2003.

- “Allocating Resources towards Social Problems and Away From Incarceration as a Means of Reducing Crime,” **MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice**, San Francisco, CA, February 28, 2003.
- “Shooting Down the More Guns, Less Crime Hypothesis,” **Stanford Law School**, Law and Economics Seminar, January 28, 2003; Faculty Workshop, Center for the Study of Law and Society, **Boalt Hall**, University of California, Berkeley, Feb. 24, 2003; Development Workshop, **Stanford Law School**, April 25, 2003; Faculty Workshop, **Stanford Law School**, July 2, 2003; Law and Public Affairs Program Workshop, **Princeton University**, September 29, 2003; Stanford Alumni Weekend, **Stanford University**, October 17, 2003; Faculty Workshop, **CIDE**, Mexico City, October 20, 2003.
- “The Impact of Legalized Abortion on Teen Childbearing,” **NBER Labor Summer Institute**, Cambridge, MA, July 30, 2002.
- “Do Concealed Handgun Laws Reduce Crime?” Faculty Workshop, **Stanford Law School**, October 4, 2000; First-Year Orientation, **Stanford Law School**, September 5, 2001; Faculty Workshop, **Harvard Law School**, April 26, 2002; Faculty Workshop, **Columbia Law School**, April 29, 2002.
- “The Evolution of Employment Discrimination Law in the 1990s: An Empirical Investigation,” Fellows Workshop, American Bar Foundation, February 11, 2002.
- “The Role of Discounting in Evaluating Social Programs Impacting on Future Generations: Comment on Arrow and Revesz,” Colloquium on Distributive Justice, **Stanford Law School**, Oct. 18, 2001.
- “The Impact of Wrongful Discharge Laws,” **NBER Labor Summer Institute**, Cambridge, MA, July 30, 2001; Labor and Employment Seminar, **NYU Law School**, October 16, 2001; Faculty Workshop, **Stanford Law School**, September 18, 2002; **Yale Law School**, January, 2004.
- “Racial Profiling: Defining the Problem, Understanding the Cause, Finding the Solution,” **American Society of Criminology Conference**, San Francisco, CA, November 15, 2000.
- “Institutional Architecture for Building Private Markets,” Conference on “Latin America and The New Economy” at **Diego Portales University** in Santiago, Chile, October 26, 2000.
- “The History and Current Status of Employment Discrimination Law in the United States,” Unicapital School of Law, (Centro Universitario Capital), Sao Paulo, Brazil, March 10, 2000.
- “Corporate Governance in Developing Countries: Opportunities and Dangers,” Conference on Neoliberal Policies for Development: Analysis and Criticism,” University of Sao Paulo Law School, March 13, 2000
- “Legalized Abortion and Crime,” Law and Economics Workshop, **University of Pennsylvania Law School**, September 21, 1999; Faculty Workshop, **Yale Law School**, September 27, 1999; **John Jay College of Criminal Justice**, October 7, 1999; Faculty Workshop, **Quinnipiac Law School**, October 13, 1999; Faculty Workshop, **University of Connecticut Law School**, October 19, 1999; **University of Virginia Law School**, October 25, 1999; Faculty Workshop, **Baruch College**, November 9, 1999; MacArthur Foundation Social Interactions and Economic Inequality Network Meeting, **Brookings Institution**, December 4, 1999; Faculty Workshop, **NYU Law School**, January 21, 2000; Faculty Workshop, **University of San Diego Law School**, February 18, 2000; Public Economics Workshop, Department of Economics, **Stanford University**, April 28, 2000; Law and Economics Workshop, **University of California at Berkeley Law School**, September 18, 2000; Faculty Workshop, **Cornell Law School**, September 26, 2000; OB-GYN Grand Rounds, **Stanford Medical School**, October 2, 2000; **Center for Advanced Studies in the Behavioral Sciences**, October 11, 2000; Faculty Workshop, **Graduate School of Business**, February 5, 2002.
- Panel member, Session on Executive Compensation, Director's College, **Stanford Law School**, March 23, 1999.

- “Exploring the Link Between Legalization of Abortion in the 1970s and Falling Crime in the 1990s,” Law and Economics Workshop, **Harvard Law School**, March 16, 1999; Law and Economics Workshop, **University of Chicago Law School**, April 27, 1999; Faculty Workshop, **Stanford Law School**, June 30, 1999.
- “Is the Increasing Reliance on Incarceration a Cost-Effective Strategy of Fighting Crime?” Faculty Workshop, **University of Wisconsin School of Social Science**, February 19, 1999.
- “What Do We Know About Options Compensation?” Institutional Investors Forum, **Stanford Law School**, May 29, 1998.
- Commentator on Orlando Patterson’s presentation on “The Ordeal of Integration,” **Stanford Economics Department**, May 20, 1998.
- “Understanding The Time Path of Crime,” Presentation at Conference on Why is Crime Decreasing? **Northwestern University School of Law**, March 28, 1998; Faculty Workshop, **Stanford Law School**, September 16, 1998; Faculty Workshop, **University of Michigan Law School**, February 18, 1999.
- Commentator, Conference on Public and Private Penalties, the **University of Chicago Law School**, Dec. 13-14, 1997.
- “Some Thoughts on Affirmative Action,” Presentation at a conference on Rethinking Equality in the Global Society, **Washington University School of Law**, November 10, 1997.
- Commentator on Chris Jencks’ Presentation on Welfare Policy, **Stanford Economics Department**, October 8, 1997.
- “The Impact of Race on Policing, Arrest Patterns, and Crime,” Faculty Workshop, **Stanford Law School**, September 10, 1997; Law and Economics Workshop, **University of Southern California Law School**, October 23, 1997; Law and Economics Workshop, **Columbia University Law School**, November 24, 1997; Law and Economics Workshop, Haas School of Business, **University of California at Berkeley**, February 19, 1998; Annual Meeting of the American Law and Economics Association, **University of California at Berkeley**, May 8, 1998; Conference on the Economics of Law Enforcement, **Harvard Law School**, October 17, 1998.
- “Crime in America: Understanding Trends, Evaluating Policy,” **Stanford Sierra Camp**, August 1997.
- “Executive Compensation: What Do We Know?” TIAA-CREF Committees on Corporate Governance and Social Responsibility, Center for Economic Policy Research, **Stanford University**, June 27, 1997; NASDAQ Director’s Day, **Stanford University**, June 30, 1997.
- Panel Chair, Criminal Law (Theory), Criminal Law (Empirical), and Labor/Discrimination/Family Law, American Law and Economics Association, **University of Toronto Law School**, May 9-10, 1997.
- Commentator, “Diversity in Law School Hiring,” **Stanford Law School**, February 25, 1997.
- Keynote Speaker, “The Optimal Rate of Crime,” 11th Annual Conference, **The Oklahoma Academy for State Goals**, Tulsa, Oklahoma, May 7, 1996.
- Panel member, Session on Executive Compensation, Director’s College, **Stanford Law School**, March 28-29, 1996.
- “The Power of Law: Can Law Make a Difference in Improving the Position of Women and Minorities in the Labor Market?” The Fellows of the **American Bar Foundation**, Baltimore, Maryland, February 3, 1996.
- “Public Action, Private Choice and Philanthropy: Understanding the Sources of Improvement in Black Schooling Quality in Georgia, 1911-1960,” **Stanford Faculty Workshop**, January 24, 1996; Faculty Workshop, **University of Virginia Law School**, January 22, 1997; **National Bureau of Economic Research**, Cambridge, Massachusetts, Labor Studies Conference, April 3, 1998.

- Commentator, "The Effect of Increased Incarceration on Crime," Meetings of the **American Economics Association**, San Francisco, January 6, 1996.
- Commentator, Symposium on Labor Law, **University of Texas Law School**, November 10-11, 1995.
- Panel Member, Symposium on Criminal Justice, **Stanford Law School**, October 6-7, 1995.
- Commentator, "The Litigious Plaintiff Hypothesis," Industrial and Labor Relations Conference, **Cornell University**, May 19, 1995.
- Commentator on Keith Hylton's, "Fee Shifting and Predictability of Law," Faculty Workshop, **Northwestern University School of Law**, February 27, 1995.
- "The Selection of Employment Discrimination Disputes for Litigation: Using Business Cycle Effects to Test the Priest/Klein Hypothesis," **Stanford University**, Law and Economics Seminars, October 31, 1994.
- "Is the United States at the Optimal Rate of Crime?" Faculty Workshop, **Indiana University School of Law**, Indianapolis, November 18, 1993; Faculty Workshop, **Northwestern University School of Law**, April 18, 1994; Law and Economics Workshop, **Stanford Law School**, April 28, 1994; Meetings of the American Law and Economics Association, **Stanford Law School**, May 13, 1994; **American Bar Foundation**, September 7, 1994; Faculty Workshop, **DePaul Law School**, September 21, 1994; Law and Economics Workshop, **University of Chicago Law School**, October 11, 1994; Faculty Seminar, **Stanford Law School**, October 31, 1994; Law and Economics Luncheon, **Stanford Law School**, November 1, 1994; Faculty Seminar Workshop, **University of Illinois College of Law**, Champaign, November 22, 1994; Law and Economics Workshop, **Harvard Law School**, November 29, 1994; School Alumni Luncheon, Chicago Club, December 13, 1994; **Northwestern Law School**; Law and Economics Workshop, **Yale Law School**, February 1, 1996; Faculty Workshop, **Cornell Law School**, April 10, 1996; Faculty Workshop, **Tokyo University Law School**, June 4, 1996; Panel on "The Economics of Crime," **Western Economics Association** Meeting, San Francisco, July 1, 1996.
- "The Broad Path of Law and Economics," Chair Ceremony, **Northwestern University School of Law**, September 30, 1994.
- Commentator on Paul Robinson's "A Failure of Moral Conviction," **Northwestern University School of Law**, September 20, 1994.
- "The Do's of Diversity, The Don'ts of Discrimination," Kellogg School of Business, **Northwestern University**, May 17, 1994.
- "Does Law Matter in the Realm of Discrimination?" **Law and Society Summer Institute**, Pala Mesa Lodge, Fallbrook, California, June 25, 1993.
- Commentator, "The Double Minority: Race and Sex Interactions in the Job Market," Society for the Advancement of Socio-Economics, **New School for Social Research**, March 28, 1993.
- "The Effects of Joint and Several Liability on Settlement Rates: Mathematical Symmetries and Meta-Issues in the Analysis of Rational Litigant Behavior," Economic Analysis of Civil Procedure, **University of Virginia School of Law**, March 26, 1993.
- Debate with Richard Epstein on Employment Discrimination Law, **Chicago Federalist Society**, February 23, 1993.
- Panel Chair, "Optimal Sanctions and Legal Rules in Tort and Criminal Law," Meetings of Annual Association of Law and Economics, **Yale Law School**, May 15, 1992.
- Panel Member, "The Law and Economics of Employment at Will," **The Institute For Humane Studies**, Fairfax, Virginia, March 27, 1992.

- "The Efficacy of Title VII," Debate with Professor Richard Epstein, **University of Chicago Law School**, February 26, 1992.
- Moderator, "Using Testers to Demonstrate Racial Discrimination," **University of Chicago Law School**, February 13, 1992.
- "Law & Macroeconomics: The Effect of the Business Cycle on Employment Discrimination Litigation," Law and Society Workshop, **Indiana University**, November 6, 1991; Faculty Workshop, **University of North Carolina Law School**, Chapel Hill, November 8, 1991; Faculty Workshop, **Northwestern University School of Law**, December 11, 1991; Law and
- Economics Conference, **Duquesne Law School**, March 14, 1992; **University of Chicago Law School**, April 2, 1992.
- Panel Chair and Commentator, "New Perspectives on Law and Economics," **Society for the Advancement of Socioeconomics**, Stockholm, June 17, 1991; **Law and Society Meetings**, Amsterdam, June 29, 1991.
- Panel Chair, "Regulation of International Capital Markets," **Law and Society Meetings**, Amsterdam, June 27, 1991.
- Panel Chair, "The Law and Economics of Discrimination," American Association of Law and Economics, **University of Illinois Law School**, May 24, 1991.
- "The Economics of Employment Discrimination Law," **Industrial Relations Research Association**, Chicago, Illinois, March 4, 1991.
- "Does Current Employment Discrimination Law Help or Hinder Minority Economic Empowerment?" Debate with Professor Richard Epstein, The Federalist Society, **Northwestern Law School**, February 26, 1991.
- Panel Member, "The Law and Economics of Employment Discrimination," **AALS Annual Meeting**, Washington, D.C., January 6, 1991.
- "Re-Evaluating Federal Civil Rights Policy," Conference on the Law and Economics of Racial Discrimination in Employment, **Georgetown University Law Center**, November 30, 1990.
- "Opting for the British Rule," Faculty Seminar, **Northwestern Law School**, September 11, 1990; Faculty Seminar, **University of Virginia Law School**, September 14, 1990; Law and Economics Seminar, **University of Michigan Law School**, October 18, 1990; Faculty Workshop, **NYU Law School**, November 14, 1990; Faculty Workshop, **University of Florida Law School**, March 18, 1991.
- "The Effects of Fee Shifting on the Settlement Rate: Theoretical Observations on Costs, Conflicts, and Contingency Fees," at the **Yale Law School Conference "Modern Civil Procedure: Issues in Controversy,"** June 16, 1990.
- "Studying the Iceberg From Its Tip?: An Analysis of the Differences Between Published and Unpublished Employment Discrimination Cases," **Law and Society Meetings**, Berkeley, California, May 31, 1990.
- Panel Discussion on Tort Reform, **University of Pennsylvania Law School**, April 27, 1990.
- Panel Discussion of "The Role of Government in Closing the Socio-Economic Gap for Minorities," at the Federalist Society National Symposium on "The Future of Civil Rights Law," **Stanford Law School**, March 16, 1990.
- "Continuous versus Episodic Change: The Impact of Affirmative Action and Civil Rights Policy on the Economic Status of Blacks," **University of Virginia Economics Department**, February 15, 1990; **Princeton University Department of Economics**, February 21, 1990 (with James Heckman); Law & Economics Workshop, **University of Toronto Law School**, October 8, 1991.

- "Sex Discrimination in the Workplace: An Economic Perspective," Fellows Seminar, **American Bar Foundation**, October 16, 1989.
- "The Changing Nature of Employment Discrimination Litigation," Law and Economics Workshop, **Columbia Law School**, March 23, 1989; Faculty Seminar, **University of Virginia Law School**, March 24, 1989; Law and Economics Workshop, **University of Chicago**, April 25, 1989; **Law & Society Meeting**; Madison, Wisconsin, June 8, 1989; Labor Economics Workshop, **University of Illinois**, Chicago, November 1, 1989; Law & Economics Workshop, **University of Pennsylvania Law School**, November 9, 1989; Law and Economics Seminar, **University of California at Berkeley**, October 4, 1990; Law and Social Science Workshop, **Northwestern University**, February 3, 1991; Law and Economics Seminar, **Stanford Law School**, March 21, 1991; Faculty Workshop, **Cornell Law School**, April 3, 1991; Visiting Committee, **Northwestern Law School**, April 5, 1991.
- "Law & Economics: The Third Phase," The Association of General Counsel, **Northwestern University School of Law**, October 14, 1988.
- "Employment Discrimination Litigation," **Northwestern Law School** Alumni Monthly Loop Luncheon. **Chicago Bar Association**, May 31, 1988.
- "The Morality of the Death Penalty." A debate with Ernest Van Den Haag. **Northwestern University School of Law**, April 19, 1988.
- "Models of Deregulation of International Capital Markets." A presentation with David Van Zandt, Faculty Seminar, **Northwestern University School of Law**, April 1, 1988; Visiting Committee, May 5, 1988.
- "Is Title VII Efficient?" A debate with Judge Richard Posner, Faculty Seminar, **Northwestern University School of Law**, November 20, 1987.
- "The Senate's Role in Confirming Supreme Court Nominees: The Historical Record," **Northwestern University School of Law**, September 22, 1987.
- "Diverting the Coasean River: Incentive Schemes to Reduce Unemployment Spells," **Yale Law School** Civil Liability Workshop, March 30, 1987; Faculty Seminar, **Northwestern University School of Law**, March 18, 1987; **University of Southern California Law Center**, May 1, 1987; and Seminar in Law and Politics, Department of Political Science, **Northwestern University**, May 8, 1987; Labor Workshop, Department of Economics, **Northwestern University**, October 27, 1987; **AALS Annual Meeting**, New Orleans, January 7, 1989.
- "Women in the Labor Market--Are Things Getting Better or Worse?" **Hamilton College**, February 23, 1987.
- "The Changing Relative Quit Rates of Young Male and Female Workers," **Hamilton-Colgate Joint Faculty Economics Seminar**, February 23, 1987.
- "Living on Borrowed Money and Time--U.S. Fiscal Policy and the Prospect of Explosive Public Debt," **Orange Rotary Club**, February 22, 1985.
- "Capital Punishment in the Eighties," **Hamilton College**, April 6, 1981.
- "Terms and Conditions of Sale Under the Uniform Commercial Code," Executive Sales Conference, **National Machine Tool Builders' Association**, May 12, 1980.

AWARDS

- **47th Tikkun Olam Award**, The Haiti Jewish Refugee Legacy Project, February 2014, "Awarded for incredibly significant work that explores and inspires the search for justice and taking serious, correct and timely action." Tikkun Olam is a Hebrew phrase that means 'repairing the world.'
<https://haitiholocaustsurvivors.wordpress.com/guest-posts/47th-tikkun-olam-award-to-professor-john-j-donohue-iii/>

PROFESSIONAL ACTIVITIES

- Member, Stanford Law School academic reading group evaluating the criminal law opinions of U.S. Supreme Court nominee Judge Ketanji Brown Jackson for the ABA Standing Committee on the Federal Judiciary, March 2022.
- Member, USF Institute for Nonviolence and Social Justice Leadership Council, University of San Francisco, June 2021 – present.
- Member, Criminal Justice Expert Panel, @CJExpertPanel, providing information on the relevance of criminal justice research to current events, beginning April 2021.
- Statistical Consultant to the Fairness Committee of the 9th Circuit Court of Appeals investigating issues of sentencing disparities by race, ethnicity, and gender in federal criminal sentencing, March 2018 – March 2020.
- Legal Scholarship Network Advisory Board Member, SSRN.
- Member, Committee on Law and Justice, National Research Council, October 2011 – December 2018.
- Fellow of the Society for Empirical Legal Studies, 2015 - present.
- Member, International Advisory Council, Economic Order Study Center, Federal University of San Paolo, Brazil.
- Co-Editor (with Steven Shavell), American Law and Economics Review, May 2006 – August 2012.
- President, American Law and Economics Association, May 2011 – May 2012.
- Co-President, Society for Empirical Legal Studies, November 2011 - August 2012. Member, Board of Directors from November 2011 - November 2014.
- Testified before the Connecticut Legislature in Support of Senate Bill 1035 and House Bill 6425 (A Bill to Eliminate the Death Penalty), March 7, 2011; Testified again before the Connecticut Judiciary Committee on March 14, 2012.
- Member of the Special Committee on ALI Young Scholars Medal, October 2009 – February 2011.
- Vice-President/President Elect, American Law and Economics Association, June 2010 – May 2011.
- Secretary-Treasurer, American Law and Economics Association, June 2009 – May 2010.
- Board of Advisors, Yale Law School Center for the Study of Corporate Law, July 2004 – August 2010.
- Evaluated the Connecticut death penalty system: “Capital Punishment in Connecticut, 1973-2007: A Comprehensive Evaluation from 4600 murders to One Execution,” http://works.bepress.com/john_donohue/137/.
- Member, Panel on Methods for Assessing Discrimination, National Academy of Sciences, September 2001 – June 2004. Resulting Publication: National Research Council, Measuring Racial Discrimination (2004), <http://www.nap.edu/catalog/10887.html>.
- Member, National Science Foundation Review Panel, Law and Social Sciences, September, 1999 – April 2001.
- Editorial Board, Journal of Empirical Legal Studies, July 2003 – present.
- Editorial Board, International Review of Law and Economics, October 1999 – present.
- Editorial Board, Law and Social Inquiry, February 2000 – present.

- Board of Editors, American Law and Economics Review, August 1998 – April 2013.
- Consultant, Planning Meeting on Measuring the Crime Control Effectiveness of Criminal Justice Sanctions, National Academy of Sciences, Washington, D.C., June 11, 1998.
- Member, Board of Directors, American Law and Economics Association, June 1994-May 1997. Member, ALEA Nominating Committee, July 1995-May 1996. Member, Program Committee, July 1996-May 1998 and July 2000 – May 2002.
- Statistical Consultant, 7th Circuit Court of Appeals Settlement Conference Project (December, 1994).
- Testified before U.S. Senate Labor Committee on evaluating the Job Corps, October 4, 1994.
- Assisted the American Bar Association Standing Committee on the Federal Judiciary in evaluating the qualifications of Ruth Bader Ginsburg (June 1993) and David Souter (June, 1990).
- Chair, AALS Section on Law and Economics, January 1990-January 1991.
- Economic Consultant to Federal Courts Study Committee. Analyzing the role of the federal courts and projected caseload for Judge Richard Posner's subcommittee. February 1989-March 1990.
- Member, 1990 AALS Scholarly Papers Committee.
- Member, Advisory Board, Corporate Counsel Center, Northwestern University School of Law. Since December 1987.
- Associate Editor, Law and Social Inquiry. Summer 1987-December 1989.
- Interviewed Administrative Law Judge candidates for U.S. Office of Personnel Management. Chicago, Illinois. May 23, 1988.
- Member, Congressman Bruce Morrison's Military Academy Selection Committee. Fall 1983.
- 1982 Candidate for Democratic Nomination, Connecticut State Senate, 14th District (Milford, Orange, West Haven).

PRO BONO LEGAL WORK

- Co-wrote amicus brief for the United States Supreme Court for “Social Scientists and Public Health Researchers in Support of Respondents” in *New York State Rifle & Pistol Association v. Bruen*, which discusses the evidence that right-to-carry laws increase violent crime in the brief, September 21, 2021.
- Co-wrote amicus brief for the United States Supreme Court for “Public Health Researchers and Social Scientists in Support of Respondents” in *New York State Rifle & Pistol Association v. City of New York*, which quotes my article *Right-to-Carry Laws and Violent Crime* in the brief, August 12, 2019.
- Co-wrote amicus brief for the 9th Circuit Court of Appeals for “Empirical Scholars Concerning Deterrence and the Death Penalty In Support of Petitioner/Appellee,” *Jones v. Davis*, No. 09 Cv. 2158 CJC, which discusses the lack of deterrence of the death penalty, March 6, 2015.
- Death Penalty case: Heath v. Alabama. Fall 1986-Fall 1989.
- Wrote brief opposing death sentence in Navy spy case. Court ruled in favor of defendant John A. Walker on September 13, 1985.
- Staff Attorney, Neighborhood Legal Services, January-July 1981.
- Appealed sentence of death for Georgia defendant to the United States Supreme Court. Sentence vacated on May 27, 1980. Baker v. Georgia.

- Court-appointed representation of indigent criminal defendant in District of Columbia Superior Court, February-July 1980.

RESEARCH GRANTS

- Stanford University Research Fund, January 1997 and January 1998.
- The National Science Foundation (project with James Heckman), December 1992; (project with Steve Levitt), July 1997.
- Fund for Labor Relations Studies, University of Michigan Law School, March 1988.

BAR ADMISSIONS

- Connecticut - October 1977; District of Columbia - March 1978 (Currently Inactive Status); United States Supreme Court - November 3, 1980; U.S. District Court for the District of Connecticut – February 14, 1978.

PROFESSIONAL and HONORARY ASSOCIATIONS

- American Academy of Arts and Sciences (since April 2009).
- Research Associate, National Bureau of Economic Research (since October 1996) – in Law and Economics and Labor Studies.
- Stanford Center for Racial Justice – August 2020 to present.
- American Law Institute (since September 29, 2010).
- Member, Fellows of the Society for Empirical Legal Studies (since October 2015).
- American Bar Association
- American Economic Association
- American Law and Economics Association

PERSONAL

- Born: January 30, 1953.

EXHIBIT 54

1 ROB BONTA
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2 P. PATTY LI
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8 *Attorneys for Defendant Rob Bonta,*
*in his official capacity*¹
9

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14 **STEVEN RUPP; STEVEN**
15 **DEMBER; CHERYL JOHNSON;**
16 **MICHAEL JONES;**
17 **CHRISTOPHER SEIFERT;**
18 **ALFONSO VALENCIA; TROY**
WILLIS; and CALIFORNIA RIFLE
& PISTOL ASSOCIATION,
INCORPORATED,

19 Plaintiffs,

20 v.

21 **ROB BONTA, in his official capacity**
22 **as Attorney General of the State of**
23 **California; and DOES 1-10,**

24 Defendants.
25

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL EXPERT
REPORT AND DECLARATION
OF LOUIS KLAREVAS**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

26 ¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the
27 Attorney General of the State of California. Pursuant to Federal Rule of Civil
28 Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as
the defendant in this case.

SUPPLEMENTAL EXPERT REPORT AND DECLARATION OF LOUIS KLAREVAS

I, Louis Klarevas, declare:

1. I have been asked by the Office of the Attorney General for the State of California to prepare an expert report and declaration addressing the relationship between assault weapons and mass shootings, including how restrictions on assault weapons impact mass shooting violence. This supplemental expert report and declaration is based on my own personal knowledge and experience, and, if I am called as a witness, I could and would testify competently to the truth of the matters discussed in this supplemental expert report and declaration (“Report” hereinafter).

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.²

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.

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.

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

² Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (2016).

1 over 70 commentary pieces. In 2019, my peer-reviewed article on the effectiveness
2 of restrictions on large-capacity magazines (LCMs)—ammunition-feeding devices
3 holding more than 10 rounds of ammunition—in reducing high-fatality mass
4 shooting resulting in six or more victims killed was published in the *American*
5 *Journal of Public Health*.³ This study found that jurisdictions with LCM bans
6 experienced substantially lower gun massacre incidence and fatality rates when
7 compared to jurisdictions not subject to similar bans. Despite being over 3 years
8 old now, this study continues to be one of the highest impact studies in all of
9 academia. It was recently referred to as “the perfect gun policy study,” in part due
10 to the study’s “robustness and quality.”⁴

11 6. Besides the present case, I have been retained by the California
12 Attorney General’s Office in the following cases: *Duncan v. Bonta*, Case No. 17-
13 cv-1017-BEN-JLB, Southern District of California; *Wiese v. Bonta*, Case No. 2:17-
14 cv-00903-WBS-KJN, Eastern District of California; *Miller v. Bonta*, Case No.
15 3:19-cv-1537-BEN-JBS, Southern District of California; *Jones v. Bonta*, Case No.
16 3:19-cv-01226-L-AHG, Southern District of California; and *Nguyen v. Bonta*, Case
17 No. 3:20-cv-02470-WQH-MDD, Southern District of California. *Duncan* and
18 *Wiese* both involve challenges to California’s regulation of LCMs, and *Miller*
19 concerns a challenge to California’s restrictions on assault weapons. *Jones*
20 involves a challenge to California’s regulation of firearm sales to individuals 18 to

21 ³ Louis Klarevas, et al., *The Effect of Large-Capacity Magazine Bans on*
22 *High-Fatality Mass Shootings*, 109 *American Journal of Public Health* 1754 (2019),
23 available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311>
(last accessed December 27, 2022).

24 ⁴ Lori Ann Post and Maryann Mason, *The Perfect Gun Policy Study in a Not*
25 *So Perfect Storm*, 112 *American Journal of Public Health* 1707 (2022), available at
26 <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2022.307120> (last
27 accessed December 27, 2022). According to Post and Mason, “Klarevas et al.
28 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.*

1 20 years old. *Nguyen* involves a challenge to California's regulation limiting the
2 sale of certain firearms to one purchase per month.

3 7. In 2017, I served as an expert for the State of Colorado, as it defended
4 a legal challenge to its restrictions on large-capacity magazines in *Rocky Mountain*
5 *Gun Owners, et al. v. Hickenlooper*, Case No. 2013CV33879, District Court, City
6 and County of Denver, Colorado.

7 8. While I was never deposed in *Wiese, Jones, or Miller*, I was deposed
8 in *Duncan, Nguyen, and Rocky Mountain Gun Owners*. I also testified in court in
9 *Rocky Mountain Gun Owners* and *Miller*.

10 9. In 2021, I was retained by the Government of Canada in the following
11 cases which involved challenges to Canada's regulation of certain categories of
12 firearms: *Parker and K.K.S. Tactical Supplies Ltd. v. Attorney General of Canada*,
13 Federal Court, Court File No.: T-569-20; *Canadian Coalition for Firearm Rights, et*
14 *al. v. Attorney General of Canada*, Federal Court, Court File No.: T-577-20;
15 *Hipwell v. Attorney General of Canada*, Federal Court, Court File No.: T-581-20;
16 *Doherty, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-
17 677-20; *Generoux, et al. v. Attorney General of Canada*, Federal Court, Court File
18 No.: T-735-20; and *Eichenberg, et al. v. Attorney General of Canada*, Federal
19 Court, Court File No.: T-905-20. I testified under oath in a consolidated court
20 proceeding involving all six cases in the Federal Court of Canada.

21 10. A true and correct copy of my current curriculum vitae is attached as
22 **Exhibit A** to this Report.

23 11. I have been retained by the California Department of Justice to render
24 expert opinions in this case. I am being compensated at a rate of \$600 per hour for
25 testimony (in deposition and in court) and \$480 per hour for all other services.
26
27
28

OPINIONS

12. It is my professional opinion, based upon my extensive review and analysis of the last 50 years of 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) mass shootings involving assault weapons, on average, have resulted in a substantially larger loss of life than similar incidents that did not involve assault weapons; (3) mass shootings resulting in double-digit fatalities are relatively modern phenomena in American history, largely related to the use of large-capacity magazines and assault weapons; (4) assault weapons are used by private citizens with a far greater frequency to perpetrate mass shootings than to stop mass shootings; and (5) jurisdictions that restrict the possession of assault weapons experience fewer mass shooting incidents and fatalities, per capita, than jurisdictions that do not restrict assault weapons. Based on these findings, it is my opinion that restrictions on assault weapons have the potential to save lives by reducing the frequency and lethality of mass shootings.⁵

⁵ For purposes of this Report, I employ two prominent definitions of mass shootings from the field of firearm violence research. “High-fatality mass shootings” (also referred to as “gun massacres”) are shootings resulting in 6 or more fatalities, not including the perpetrator(s), regardless of location or underlying motive. “Mass public shootings” are shootings resulting in 4 or more fatalities, not including the perpetrator(s), occurring largely in a public setting and not undertaken in pursuit of an underlying criminal objective (e.g., robbery, illicit trafficking, organized crime, gang violence, or domestic violence). Unfortunately, long-term, publicly-available, exhaustive data on all mass shootings resulting in 4 or more fatalities, not including the perpetrator(s), regardless of location or underlying motive, are presently not available. This limits comprehensive scholarly analyses over a long period of time to the above two types of mass shooting violence: high-fatality mass shootings and mass public shootings. 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 B**. The data set of mass public shootings that I analyzed is publicly available from The Violence Project. The creation of this data set was funded by the National Institute of Justice, which is part of the U.S. Department of Justice. In addition to basic variables, such as incident dates and locations, casualty counts, and information on offenders, The Violence Project data set also identifies whether an assault weapon was used to perpetrate a mass public shooting. The Violence Project data set is available at <https://www.theviolenceproject.org/mass-shooter-database> (last accessed December 27, 2022). The Violence Project data set

I. MASS SHOOTINGS ARE A GROWING THREAT TO PUBLIC SAFETY

13. Examining mass-casualty acts of violence in the United States points to two disturbing patterns. 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 1-4, the problem of mass shooting violence is on the rise. To put the increase over the last 50 years into perspective, between the ten-year-period of 1973-1982 and the ten-year-period of 2013-2022, the average population of the United States increased approximately 47%. However, the number of people killed in high-fatality mass shootings and mass public shootings between these two ten-year-periods, respectively, reflect 178% and 523% increases. In other words, the rise in mass shooting violence has far outpaced the rise in national population. The obvious takeaway from these patterns and trends is that mass shootings pose a significant—and growing—threat to American public safety.

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

is reproduced in **Exhibit C**. Unless stated otherwise, all of the data used to perform original analyses and to construct tables and figures in this Report are drawn from **Exhibits B and C**.

Figure 1. Annual Trends in High-Fatality Mass Shooting Incidents, 1973-2022

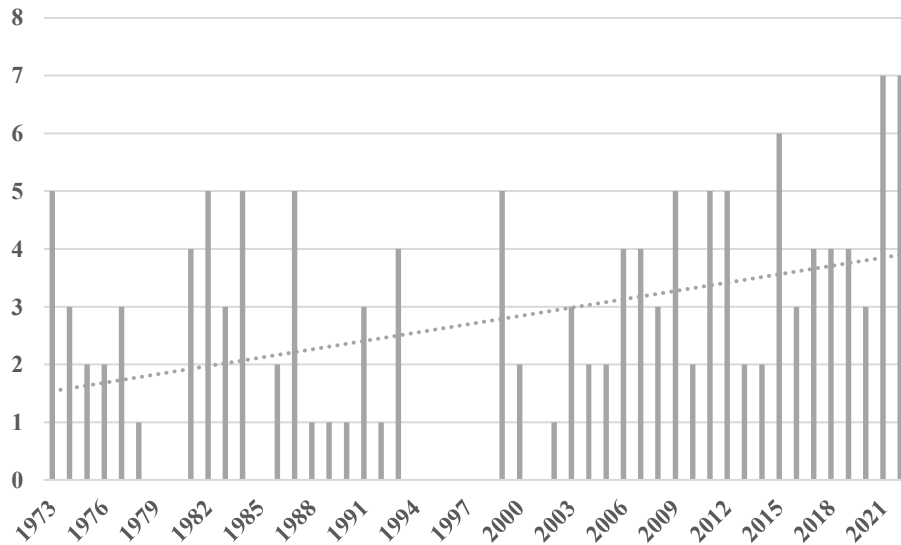


Figure 2. Annual Trends in High-Fatality Mass Shooting Fatalities, 1973-2022

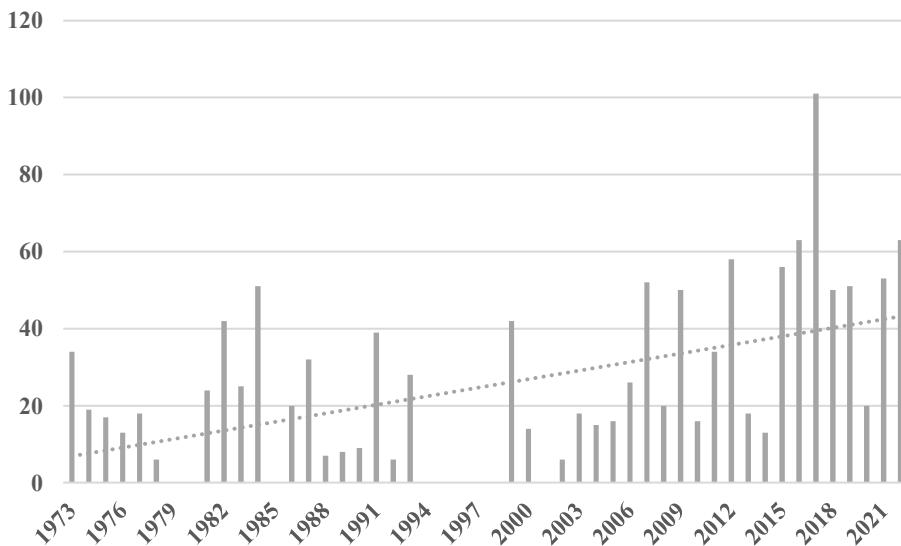


Figure 3. Annual Trends in Mass Public Shooting Incidents, 1973-2022

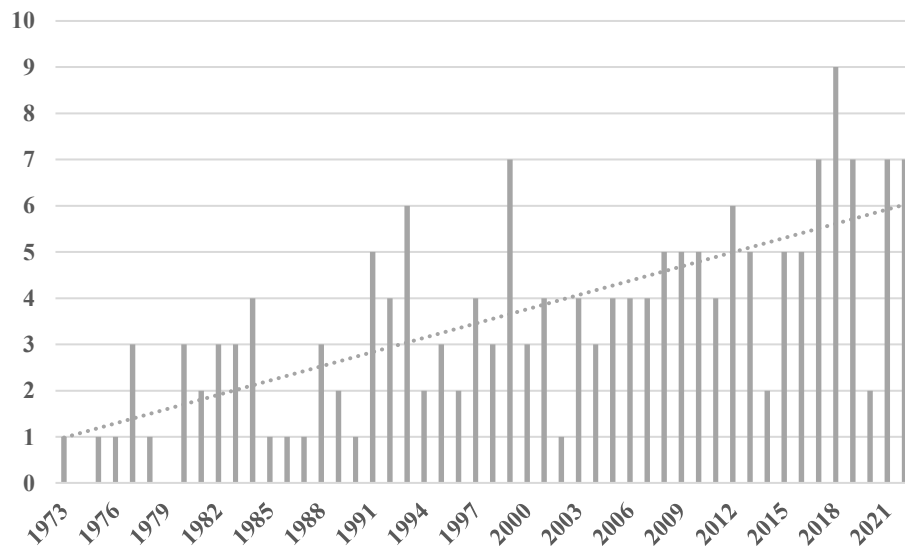
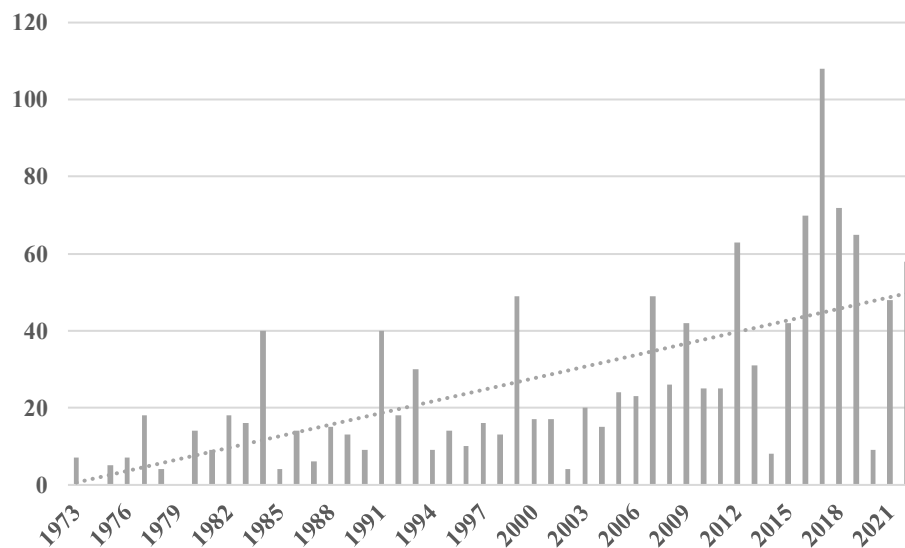


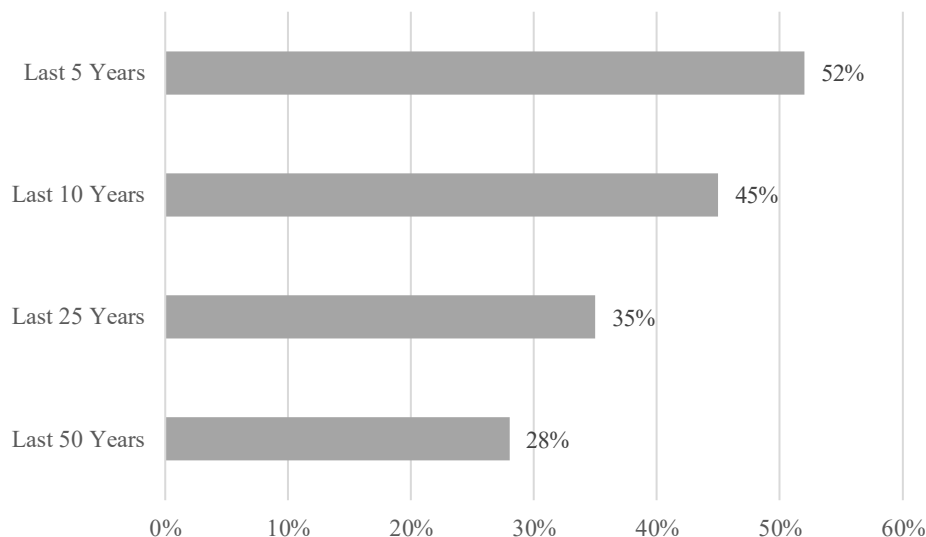
Figure 4. Annual Trends in Mass Public Shooting Fatalities, 1973-2022



II. THE USE OF ASSAULT WEAPONS IS A MAJOR FACTOR IN THE RISE OF MASS SHOOTING VIOLENCE

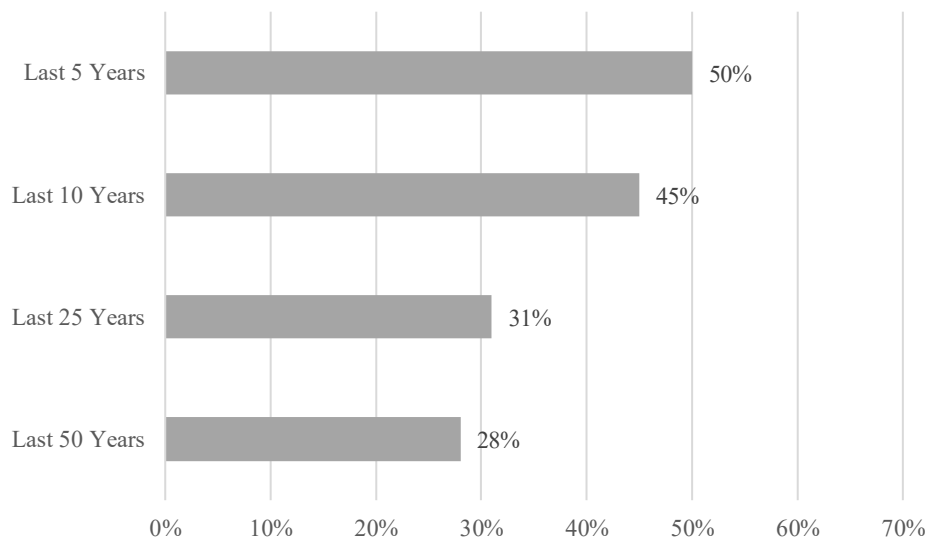
14. In addition to showing that the frequency and lethality of mass shootings are on the rise nationally, the data also point to another striking pattern: the use of assault weapons in the commission of mass shootings has grown in vast proportions. In both high-fatality mass shootings and mass public shootings, assault weapons have been used with increased frequency. As shown in Figures 5 and 6, the pattern is particularly marked of late, with at least half of high-fatality mass shootings as well as mass public shootings in the last five years involving assault weapons. A similar, albeit more pronounced, pattern is found when examining fatalities in the last five years, with approximately 6-in-10 high-fatality mass shooting deaths as well as mass public shooting deaths resulting from incidents involving assault weapons, as shown in Figures 7 and 8. These trends clearly demonstrate that, among mass shooters, there is a growing preference for using assault weapons to perpetrate their attacks.

Figure 5. Share of High-Fatality Mass Shootings Involving Assault Weapons



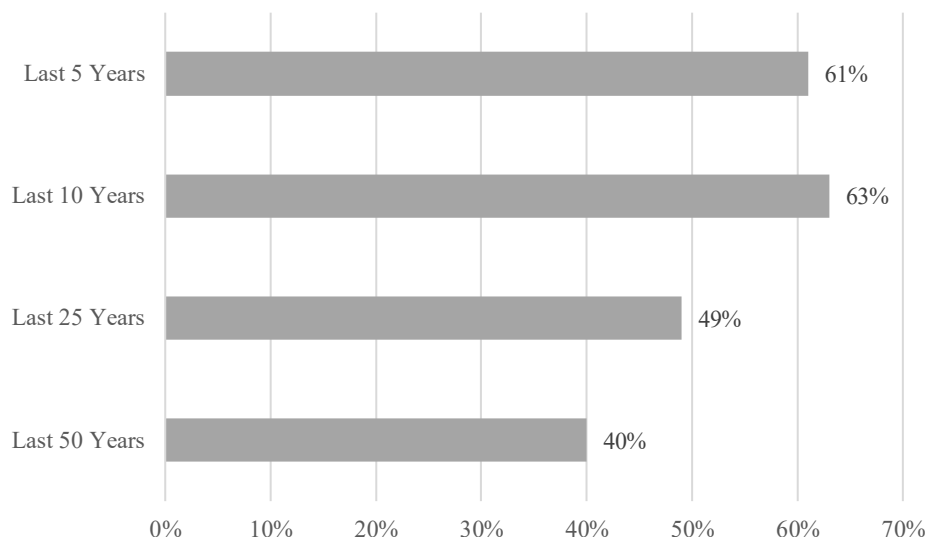
Note: The calculations in Fig. 5 exclude two high-fatality mass shootings (3/15/2020, Moncure, NC, 6 deaths; and 9/7/2020, Aguanga, CA, 7 deaths) in which the firearms used are unknown.

Figure 6. Share of Mass Public Shootings Involving Assault Weapons



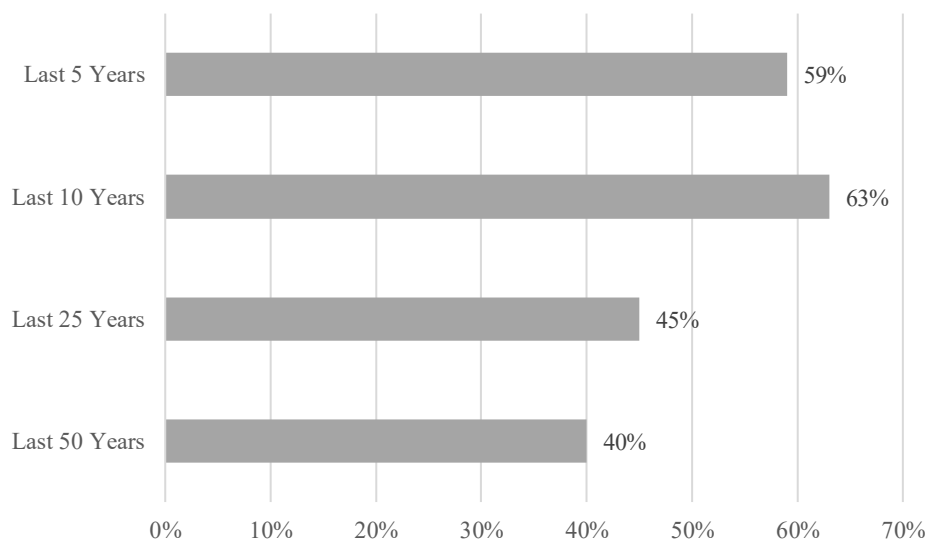
Note: The calculations in Fig. 6 exclude one mass public shooting (2/6/17, Yazoo City, MS, 4 deaths) in which the firearms used are unknown.

Figure 7. Share of High-Fatality Mass Shooting Deaths Resulting from Incidents Involving Assault Weapons



Note: The calculations in Fig. 7 exclude two high-fatality mass shootings (3/15/2020, Moncure, NC, 6 deaths; and 9/7/2020, Aguanga, CA, 7 deaths) in which the firearms used are unknown.

Figure 8. Share of Mass Public Shooting Deaths Resulting from Incidents Involving Assault Weapons



Note: The calculations in Fig. 8 exclude one mass public shooting (2/6/17, Yazoo City, MS, 4 deaths) in which the firearms used are unknown.

1 15. The growing use of assault weapons to carry out mass shootings is an
2 obvious theme reflected in the data. The *disproportionate* resort to assault weapons
3 by perpetrators of mass shootings is another clear theme. According to National
4 Sport Shooting Foundation (NSSF) and federal government data, “modern sporting
5 rifles”—which is a firearm industry term for AR-15-platform and AK-47-platform
6 rifles—make up approximately 5% of all firearms in circulation in American
7 society, according to the most recent publicly-available data (24.4 million out of an
8 estimated 461.9 million firearms).⁶ If assault weapons were used in proportion to
9 the percentage of modern sporting rifles in circulation, approximately 5% of all
10 mass shootings would involve assault weapons. However, as seen in Figures 5-6
11 above, civilian ownership rates and mass-shooter use rates are not similar. Indeed,
12 the difference is approximately ten-fold, with the rate at which assault weapons are
13 now used to commit mass murder far outpacing the rate at which modern sporting
14 rifles circulate amongst civilians in the United States.

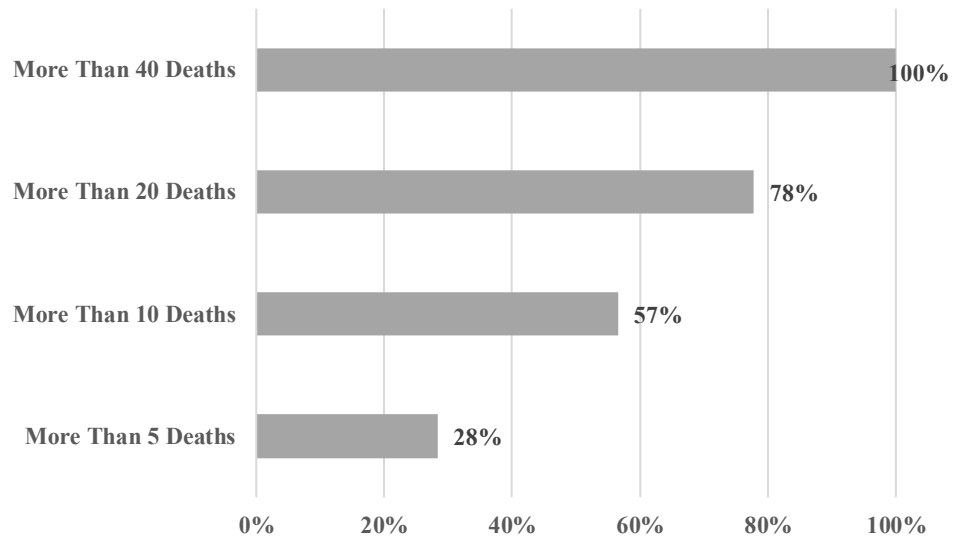
15 ⁶ The 5.6% ownership rate for modern sporting rifles was calculated using
16 NSSF and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) data. The
17 NSSF estimates that there are approximately 24.4 million modern sporting rifles in
18 civilian hands as of the end of 2020 (when the most recent data is available).
19 NSSF, “Commonly Owned: NSSF Announces over 24 Million MSRs in
20 Circulation,” July 20, 2022, *available at* [https://www.nssf.org/articles/commonly-
21 owned-nssf-announces-over-24-million-msrs-in-circulation](https://www.nssf.org/articles/commonly-owned-nssf-announces-over-24-million-msrs-in-circulation) (last accessed January
22 3, 2023). In a 2020 report that captured data through the end of 2018, the NSSF
23 estimated that there were 433.9 million total firearms in civilian circulation. NSSF,
24 Industry Intelligence Reports: Firearm Production in the United States with Firearm
25 Import and Export Data, 2020, at 18, *available at* [https://www.nssf.org/wp-
26 content/uploads/2020/11/IIR-2020-Firearms-Production-v14.pdf](https://www.nssf.org/wp-content/uploads/2020/11/IIR-2020-Firearms-Production-v14.pdf) (last accessed
27 January 3, 2023). According to ATF data, in 2019 and 2020, an additional 28.0
28 million firearms entered the civilian stock nationwide. ATF, National Firearms
Commerce and Trafficking Assessment: Firearms in Commerce, 2022, at 181, 188,
193, *available at* [https://www.atf.gov/firearms/docs/report/national-firearms-
commerce-and-trafficking-assessment-firearms-commerce-volume/download](https://www.atf.gov/firearms/docs/report/national-firearms-commerce-and-trafficking-assessment-firearms-commerce-volume/download) (last
accessed January 3, 2023). Assuming the figures in the NSSF’s 2020 report are
accurate, this brings the estimated number of firearms in civilian circulation
through the end of 2020 to approximately 461.9 million. The ownership rate is
calculated as follows: 24.4 million modern sporting rifles divided by 461.9 million
total firearms equals 5.3%, which rounds down to 5%. Because it appears that the
ATF data that NSSF relies upon to form its own estimates also include firearms in
the possession of domestic law enforcement agencies, NSSF estimates of modern
sporting rifles owned by civilians are likely over-estimates. *Ibid.*, at 12; NSSF,
Industry Intelligence Reports, 2020, at 2-3.

16. 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. For instance, 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, another prominent trait is that 6 of the 7 incidents (86%) involved assault weapons, as shown in Table 2. When mass shooting fatalities are examined exponentially, the relationship between assault weapons use and higher death tolls is striking. In the past 50 years, assault weapons have been used in 28% of all high-fatality mass shootings and mass public shootings. However, as the fatality thresholds of such incidents increase, so too does the share of incidents involving assault weapons. For instance, assault weapons were used in 80% of all mass public shootings resulting in more than 24 deaths and 100% of all high-fatality mass shootings resulting in more than 40 deaths (Figures 9-10). As the data show, there is an association between assault weapons use and mass shooting lethality.

Table 2. The Use of Assault Weapons in the Deadliest Acts of Intentional Criminal Violence in the U.S. since 9/11

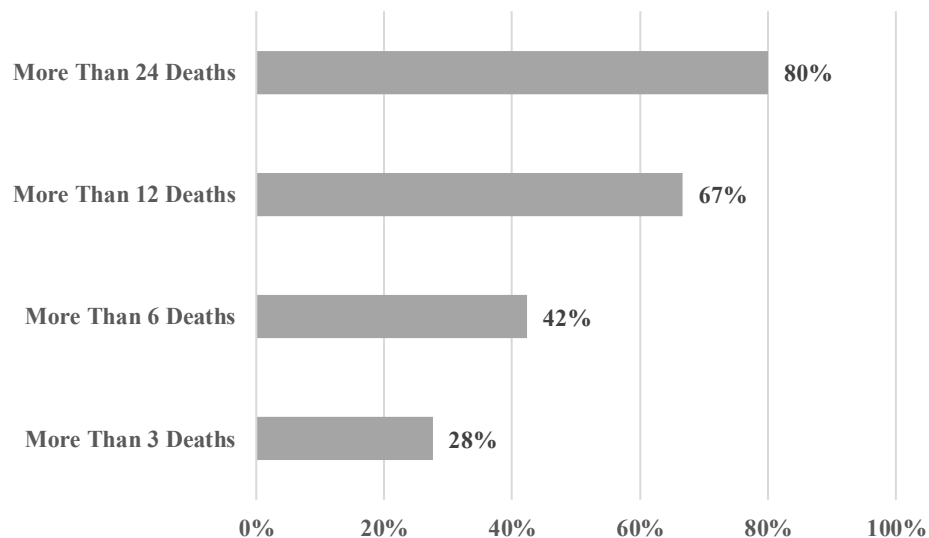
Deaths	Date	Location	Involved Assault Weapon(s)
60	October 1, 2017	Las Vegas, NV	✓ (AR-15)
49	June 12, 2016	Orlando, FL	✓ (AR-15)
32	April 16, 2007	Blacksburg, VA	
27	December 14, 2012	Newtown, CT	✓ (AR-15)
25	November 5, 2017	Sutherland Springs, TX	✓ (AR-15)
23	August 3, 2019	El Paso, TX	✓ (AK-47)
21	May 24, 2022	Uvalde, TX	✓ (AR-15)

Figure 9. Percentage of High-Fatality Mass Shootings Involving Assault Weapons by Fatality Threshold, 1973-2022



Note: The calculations in Fig. 9 exclude two high-fatality mass shootings (3/15/2020, Moncure, NC, 6 deaths; and 9/7/2020, Aguanga, CA, 7 deaths) in which the firearms used are unknown.

Figure 10. Percentage of Mass Public Shootings Involving Assault Weapons by Fatality Threshold, 1973-2022



Note: The calculations in Fig. 10 exclude one mass public shooting (2/6/17, Yazoo City, MS, 4 deaths) in which the firearms used are unknown.

1 17. Of the 134 high-fatality mass shootings in that last 50 years in which
2 the type of firearm used is known, 38 involved assault weapons, resulting in 491
3 deaths. The average death toll for these 38 incidents is 12.9 fatalities per shooting.
4 By contrast, the average death toll for the 96 incidents in which it is known assault
5 weapons were not used (which resulted in 749 fatalities) is 7.8 fatalities per
6 shooting (Table 3). Of the 174 mass public shootings in that last 50 years in which
7 the type of firearm used is known, 48 involved assault weapons, resulting in 496
8 deaths. The average death toll for these 48 incidents is 10.3 fatalities per shooting.
9 By contrast, the average death toll for the 126 incidents in which it is known assault
10 weapons were not used (which resulted in 759 fatalities) is 6.0 fatalities per
11 shooting (Table 4). In other words, in the last 50 years, the use of assault weapons
12 in high-fatality mass shootings and mass public shootings has resulted, respectively,
13 in 65% and 72% increases in average fatalities per incident (Tables 3 and 4). In the
14 last 10 years, the differences in average fatality rates per incident are even more
15 pronounced—more than double: 8.0 versus 16.7 deaths per high-fatality mass
16 shooting and 6.2 versus 12.8 deaths per mass public shooting. These amount,
17 respectively, to 109% and 106% increases in the average death tolls, associated
18 with the use of assault weapons (Tables 3 and 4).

19 18. This review of the data supports an obvious takeaway: assault weapons
20 are dangerous force multipliers when used to perpetrate mass shootings.
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Table 3. The Average Death Tolls Associated with the Use of Assault Weapons in High-Fatality Mass Shootings in the U.S., 1973-2022

	Average Death Toll for Incidents That Did Not Involve the Use of Assault Weapons	Average Death Toll for Incidents That Did Involve the Use of Assault Weapons	Percent Increase in Average Death Toll Associated with the Use of Assault Weapons
Last 50 Years	7.8 Deaths	12.9 Deaths	65%
Last 10 Years	8.0 Deaths	16.7 Deaths	109%

Note: The calculations in Table 3 exclude two high-fatality mass shootings (3/15/2020, Moncure, NC, 6 deaths; and 9/7/2020, Aguanga, CA, 7 deaths) in which the types of firearms used are unknown.

Table 4. The Average Death Tolls Associated with the Use of Assault Weapons in Mass Public Shootings in the U.S., 1973-2022

	Average Death Toll for Incidents That Did Not Involve the Use of Assault Weapons	Average Death Toll for Incidents That Did Involve the Use of Assault Weapons	Percent Increase in Average Death Toll Associated with the Use of Assault Weapons
Last 50 Years	6.0 Deaths	10.3 Deaths	72%
Last 10 Years	6.2 Deaths	12.8 Deaths	106%

Note: The calculations in Table 4 exclude one mass public shooting (2/6/17, Yazoo City, MS, 4 deaths) in which the types of firearms used are unknown.

1 **III. DOUBLE-DIGIT-FATALITY MASS SHOOTINGS ARE A POST-WORLD**
2 **WAR II PHENOMENON IN AMERICAN HISTORY AND THEY OFTEN**
3 **INVOLVE ASSAULT WEAPONS**

4 19. I have also examined the historical occurrence and distribution of mass
5 shootings resulting in 10 or more victims killed since 1776 (Table 5 and Figure 11).
6 A lengthy search uncovered several informative findings.⁷ In terms of the origins
7 of this form of extreme gun violence, there is no known occurrence of a mass
8 shooting resulting in double-digit fatalities at any point in time during the 173-year
9 period between the nation's founding in 1776 and 1948. The first known mass
10 shooting resulting in 10 or more deaths occurs in 1949. In other words, for 70
11 percent of its 247-year existence as a nation, the United States did not experience a
12 mass shooting resulting in double-digit fatalities, making them a relatively modern
13 phenomena in American history.⁸

14 20. After the first such incident in 1949, 17 years pass until a similar mass
15 shooting occurs in 1966. The third such mass shooting then occurs 9 years later, in
16 1975. And the fourth such incident occurs 7 years after, in 1982. Basically, the
17 first few mass shootings resulting in 10 or more deaths did not occur until the post-
18 World War II era. Furthermore, these first few double-digit-fatality incidents
19 occurred with relative infrequency, although the temporal gap between these first
20 four incidents shrank with each event (Table 5 and Figure 12).⁹

21
22 ⁷ I searched for firearm-related "murders," using variations of the term,
23 setting a minimum fatality threshold of 10 in the Newspaper Archive online
24 newspaper repository, *available at* www.newspaperarchive.com (last accessed
25 October 2, 2022). The Newspaper Archive contains local and major metropolitan
26 newspapers dating back to 1607. Consistent with other analyses on mass murder,
27 incidents of large-scale, inter-group violence such as mob violence, rioting, combat
28 or battle skirmishes, and attacks initiated by authorities acting in their official
capacity were excluded.

⁸ Using the Constitution's effective date of 1789 as the starting point would
lead to the conclusion that, for 68 percent of its 234-year existence as a nation, the
United States did not experience a mass shooting resulting in double-digit fatalities.

⁹ Figures 11-12 are reproduced in larger form as **Exhibit D** of this Report.

Table 5. Mass Shootings Resulting in Double-Digit Fatalities in American History, 1776-2022

	Date	Location	Deaths	Involved Assault Weapon(s)	Involved Large- Capacity Magazine(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	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; (2) the statutes of the state where the gun massacre occurred; or (3) a legal or judicial declaration issued by a state official. An incident was coded as involving a large-capacity magazine if at least one of the firearms discharged was armed with a detachable ammunition-feeding device holding more than 10 bullets.

21. The distribution of double-digit-fatality mass shootings changes in the early 1980s, when five such events take place in a span of just five years. (Table 5 and Figure 12). This timeframe also reflects the first time that assault weapons are 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 is followed by a 20-year period in which only 2 double-digit-fatality mass shootings occur (Figure 12). This period of time from 1987-2007 correlates with two important pieces of federal firearms legislation: the 1986 Firearm Owners Protection Act and the 1994 Federal Assault Weapons Ban.

22. It is well-documented in the academic literature that, after the Assault Weapons Ban expired in 2004, mass shooting violence increased substantially.¹⁰ Mass shootings that resulted in 10 or more deaths were no 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. In the 18 years since 2004, there have been 20 double-digit-fatality mass shootings. In other words, the average rate of occurrence has increased over six-fold since the Federal Assault Weapons Ban expired (Table 5 and Figure 12). (The 1994 Federal Assault Weapons Ban and its impact on mass shooting violence is discussed in further detail in Section V of this Report.)

¹⁰ See, for example, Louis Klarevas, Rampage Nation, *supra* note 2 (Relevant Excerpt Attached as **Exhibit E**); Louis Klarevas, et al., *The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings*, *supra* note 3 (Attached as **Exhibit F**); 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 G**); 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 H**); 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 I**).

23. As with the analyses of mass shootings discussed above in Section II, death tolls in double-digit-fatality mass shootings are largely related to the use of large-capacity magazines and assault weapons—firearms technologies that, in terms of mass shootings, serve as force multipliers (Table 5 and Figure 12).

IV. ASSAULT WEAPONS ARE ALMOST NEVER USED BY PRIVATE CITIZENS IN SELF-DEFENSE DURING ACTIVE SHOOTINGS

24. An important question that, until now, has gone unanswered is: Are assault weapons used as frequently to stop mass shootings as they are to perpetrate them? As shown above in Section II, assault weapons have been used to perpetrate approximately one-third of mass shootings in the past 25 years (Figures 5-6). And in the past 5 years, the share of mass shootings that have been perpetrated with assault weapons has risen to approximately half (Figures 5-6).

25. The Federal Bureau of Investigation (FBI) has been documenting active shooter incidents since 2000.¹¹ According to the FBI, active shooter incidents are violent attacks that involve “one or more individuals actively engaged in killing or attempting to kill people in a populated area.”¹² A simple way to conceptualize active shooter events is to think of them as attempted mass shootings. As part of its analysis of attempted mass shootings, the FBI identifies incidents that involved armed civilians using their personal firearms to intervene, regardless of whether or not the interventions were successful in stopping the attacks and/or neutralizing the perpetrator(s).

¹¹ All of the information in this section, including definitions and data, are publicly available from the FBI. See FBI, “Active Shooter Safety Resources,” available at <https://www.fbi.gov/how-we-can-help-you/safety-resources/active-shooter-safety-resources> (last accessed January 2, 2023). At the time that this Report was being prepared, active shooter incident data was not yet available for the year 2022. This data will likely be released by the FBI at some point in 2023. As such, the time parameter for the analysis in this section is 2000-2021.

¹² The FBI adds, “Implicit in this definition is the shooter’s use of one or more firearms. The ‘active’ aspect of the definition inherently implies the ongoing nature of the incidents, and thus the potential for the response to affect the outcome.” *Ibid.*

26. In the 22 years between January 1, 2000, and December 31, 2021, the FBI has identified 406 active shootings occurring in the United States. Out of these 406 active shooter incidents, 15 incidents (3.7%) involved defensive gun uses (DGUs) by civilians, excluding law enforcement or armed security.¹³ Of these 15 DGUs that involved an armed private citizen intervening, 12 incidents involved handguns. The remaining 3 incidents involved long guns: 1 shotgun, 1 bolt-action rifle, and 1 assault rifle. In other words, out of the 15 incidents where an armed civilian intervened, only 1 incident (6.7%) involved an assault weapon.¹⁴ Within the broader context of all active shooter incidents, only 1 incident out of 406 in the past 22 years (0.2%) involved an armed civilian intervening with an assault weapon.¹⁵

27. The bottom line: assault weapons are used by civilians with a far greater frequency to perpetrate mass shootings than to stop mass shootings.

¹³ In 14 of these 15 DGU-involved active shooter incidents, there was an exchange of gunfire. For the one incident that did not involve an exchange of gunfire, the gun (a handgun) was used to detain the active shooter after the shooting had ceased. *Ibid.*

¹⁴ The FBI also identifies an incident in which an armed individual (a local firefighter) subdued and detained a school shooter, but there is no evidence that the armed citizen drew his handgun during the incident. Moreover, local authorities have refused to comment on whether the firefighter ever drew his handgun. *See* Carla Field, “Firefighter Was Armed During Takedown of Shooting Suspect, Sheriff Says,” WYFF, October 3, 2016, *available at* <https://www.wyff4.com/article/firefighter-was-armed-during-takedown-of-shooting-suspect-sheriff-says/7147424> (last accessed January 3, 2023). Adding this incident to the 15 DGU-involved incidents would mean that 6.3% (as opposed to 6.7%) of the active shooter incidents, where an armed civilian intervened, involved an assault weapon.

¹⁵ FBI, *supra* note 11. The one DGU that involved an assault weapon was the 2017 church massacre in Sutherland Springs, Texas. In that incident, an armed private citizen used an AR-15-style assault rifle to wound the perpetrator as he was attempting to flee the scene. While the perpetrator was still able to flee the scene despite being shot, minutes later, he crashed his vehicle trying to escape and then took his life with his own firearm before law enforcement could apprehend him. *See* Adam Roberts, “Man Who Shot Texas Gunman Shares His Story,” KHBS/KHOG, November 7, 2017, *available at* <https://www.4029tv.com/article/man-who-shot-texas-church-gunman-shares-his-story/13437943> (last accessed January 3, 2023).

V. RESTRICTIONS ON ASSAULT WEAPONS REDUCE THE INCIDENCE OF GUN MASSACRES, RESULTING IN LIVES SAVED

28. In light of the growing threat posed by mass shootings, legislatures have enacted measures aimed at reducing the occurrence and lethality of such deadly acts of firearm violence. Prominent among these measures are restrictions on assault weapons. In 1989, California became the first state to enact an assault weapons ban. The Roberti-Roos Assault Weapons Control Act (AWCA) was passed by the California legislature in 1989 in response to an attack on Cleveland Elementary School in Stockton earlier that year. The gunman in the Stockton school shooting used an AK-47 to kill five children and wound another 30 individuals, 29 of whom were children. In the process of enacting the AWCA, the legislature codified its findings and intent (at Cal. Penal Code § 30505(a)).

The Legislature hereby finds and declares that the proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of the state. The Legislature has restricted the assault weapons specified in [California's statutes] based upon finding that each firearm has such a high rate of fire and capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings.

29. California's statewide assault weapons ban took effect on January 1, 1990. While California was the first state to restrict assault weapons, New Jersey, Hawaii, Connecticut, and Maryland soon followed suit.¹⁶

30. In the years since, the state legislature revised the law to make it more comprehensive. In the deliberations over SB 880 in 2016, which was ultimately enacted to close the so-called "bullet button" loophole, the author of that bill stated:

¹⁶ Giffords Law Center to Prevent Gun Violence, "Assault Weapons," Giffords.org, available at <https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/assault-weapons> (last accessed January 2, 2023).

1 [Assault weapons] are designed only to facilitate the maximum
2 destruction of human life. Such weapons have been used in a number
3 of recent gun attacks, including the recent terrorist attack in San
4 Bernardino that left 14 Californians dead and 21 injured. Too many
5 Californians have died at the hands of these dangerous weapons.¹⁷

6 31. In considering SB 880, the Assembly Committee on Public Safety
7 noted that the assault weapon is considered “an effective tool of *mass murder*.”¹⁸
8 This sentiment was echoed in the Senate Committee on Public Safety, which, in its
9 report on SB 880, reproduced the following rationale in support of the bill.

10 The rapid and controlled spray of bullets associated with assault
11 weapons is a threat to police officers, families, and communities. As
12 was shown by the tragedy at Sandy Hook School and more recently in
13 San Bernardino, an assault weapon escalates the lethality and number
14 of victims in a *mass shooting incident*.¹⁹

15 32. The legislative intent of California is not significantly different from
16 that of the other states that have since restricted assault weapons. *The primary*
17 *objective of every assault weapons ban is reducing the frequency and lethality of*
18 *mass shootings*. Because, on average, the use of assault weapons results in higher
19 death tolls in mass shootings, the rationale for imposing tight restrictions on assault
20 weapons is to reduce the loss of life attributable to the increased kill potential of
21 such dangerous firearms.

22 33. In September 1994, moved to action by several high-profile shooting
23 rampages, the U.S. Congress enacted a ban on assault weapons that applied to all 50

24 ¹⁷ Report of the Assembly Committee on Public Safety on SB 880 (Hall),
25 June 13, 2016, *available at*
26 https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160
27 [SB880](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160) (last accessed January 2, 2023).

28 ¹⁸ *Ibid.* (emphasis added)

¹⁹ Report of the Senate Committee on Public Safety on SB 880 (Hall), April
19, 2016, *available at*
https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160
[SB880](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160) (last accessed January 2, 2023) (emphasis added).

1 states plus the District of Columbia, bringing the entire country under the ban.²⁰
2 Like the state assault weapons bans that were implemented before it, the federal ban
3 was aimed primarily at reducing mass shooting violence—an objective the ban
4 sought to achieve by prohibiting the manufacture, importation, possession, and
5 transfer of assault weapons not legally owned by civilians prior to the date of the
6 law's effect (September 13, 1994).²¹ Congress, however, inserted a sunset
7 provision in the law which allowed the federal ban to expire in exactly 10 years, if
8 it was not renewed beforehand.

9 34. Cognizant that the federal ban might be allowed to sunset,
10 Massachusetts and New York enacted their own state assault weapons bans while
11 the federal ban was still in effect. As Congress ultimately chose not to renew the
12 law, the federal ban expired on September 13, 2004. Since the federal ban's
13 expiration, the District of Columbia and Delaware have also enacted bans on assault
14 weapons.²²

15 35. Currently, over one-quarter of the U.S. population is subject to an
16 assault weapons ban. The following is a list of the nine state-level jurisdictions that
17 presently ban assault weapons and the effective dates of their bans: California
18 (January 1, 1990); New Jersey (September 1, 1990); Hawaii (July 1, 1992, assault
19 pistols only); Connecticut (October 1, 1993); Maryland (June 1, 1994, initially
20 assault pistols but expanded to long guns October 1, 2013); Massachusetts (July 23,
21 1998); New York (November 1, 2000); the District of Columbia (March 31, 2009);
22 and Delaware (June 20, 2022).

23
24 ²⁰ 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 ²¹ Christopher Ingraham, "The Real Reason Congress Banned Assault
26 Weapons in 1994—and Why It Worked," *Washington Post*, February 22, 2018,
27 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).

28 ²² *Ibid.*; and Giffords, "Assault Weapons," *supra* note 16.

1 36. In the field of epidemiology, a common method for assessing the
2 impact of laws and policies is to measure the rate of onset of new cases of an event,
3 comparing the rate when and where the laws and policies were in effect against the
4 rate when and where the laws and policies were not in effect. This measure, known
5 as the incidence rate, allows public health experts to identify discernable
6 differences, while accounting for variations in the population, over a set period of
7 time. Relevant to the present case, calculating incidence rates across jurisdictions,
8 in a manner that captures whether or not assault weapons bans were in effect during
9 the period of observation, allows for the assessment of the effectiveness of such
10 bans. In addition, fatality rates—the number of deaths, per population, that result
11 from particular events across different jurisdictions—also provide insights into the
12 impact of assault weapons bans on mass shootings.²³

13 37. Since January 1, 1990, when the first state ban on assault weapons
14 took effect, through December 31, 2022, there have been 94 high-fatality mass
15 shootings and 145 mass public shootings in the United States (**Exhibits B and C**).²⁴
16 Calculating incidence and fatality rates for this time-period, across jurisdictions
17 with and without bans on assault weapons, reveals that states that prohibited assault
18 weapons experienced 46% and 16% decreases, respectively, in the high-fatality
19 mass shooting and mass public shooting incidence rates. They also experienced
20 54% and 37% decreases, respectively, in the high-fatality mass shooting and mass
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23 ²³ For purposes of this Report, incidence and fatality rates are calculated
24 using methods and principles endorsed by the Centers for Disease Control. *See*
25 Centers for Disease Control and Prevention, *Principles of Epidemiology in Public*
26 *Health Practice: An Introduction to Applied Epidemiology and Biostatistics* (2012),
available at <https://stacks.cdc.gov/view/cdc/13178> (last accessed January 3, 2023).

27 ²⁴ There were no state bans on assault weapons in effect prior to January 1,
28 1990. Therefore, January 1, 1990, is the logical starting point for an analysis of the
impact of assault weapons bans.

1 public shooting fatality rates, regardless of the weaponry used by the mass
2 murderers (Tables 6-7).²⁵

3 38. When calculations go a step further and are limited to mass shootings
4 involving assault weapons, the difference between the two jurisdictional categories
5 (non-ban states and ban states) is even more pronounced. In the time-period
6 between January 1, 1990, and December 31, 2022, accounting for population, states
7 with assault weapons bans in place experienced 59% fewer high-fatality mass
8 shootings involving the use of assault weapons and 35% fewer mass public
9 shootings involving the use of assault weapons. Similarly, jurisdictions with bans
10 in effect experienced 68% fewer deaths resulting from high-fatality mass shootings
11 perpetrated with assault weapons and 58% fewer deaths resulting from mass public
12 shootings perpetrated with assault weapons (Tables 6-7).

13 39. All of the above epidemiological calculations lead to the same
14 conclusion: when assault weapons bans are in effect, per capita, fewer mass
15 shootings occur and fewer people die in such shootings—especially incidents
16 involving assault weapons, where the impact is most profound. To state this
17 finding in lay terms: bans on assault weapons appear to save lives.

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²⁵ For purposes of coding, between September 13, 1994, and September 12,
26 2004, the federal assault weapons ban was in effect. During that 10-year period, all
27 50 states and the District of Columbia were under legal conditions that prohibited
28 assault weapons. As such, the entire country is coded as being under an assault
weapons ban during the timeframe that the federal assault weapons ban was in
effect.

Table 6. Incidence and Fatality Rates for High-Fatality Mass Shootings, by Whether or Not Assault Weapons Bans Were in Effect, 1990-2022

	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-AW Ban States	159.2	64	1.22	673	12.81
AW Ban States	137.1	30	0.66	264	5.84
Percentage Decrease in Rate for AW Ban States			46%		54%
High-Fatality Mass Shootings Involving Assault Weapons					
Non-AW Ban States	159.2	23	0.44	333	6.34
AW Ban States	137.1	8	0.18	92	2.03
Percentage Decrease in Rate for AW Ban States			59%		68%

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).

Table 7. Incidence and Fatality Rates for Mass Public Shootings, by Whether or Not Assault Weapons Bans Were in Effect, 1990-2022

	Annual Average Population (Millions)	Total Incidents	Annual Incidents per 100 Million Population	Total Deaths	Annual Deaths per 100 Million Population
All Mass Public Shootings					
Non-AW Ban States	159.2	84	1.60	694	13.21
AW Ban States	137.1	61	1.35	375	8.29
Percentage Decrease in Rate for AW Ban States			16%		37%
Mass Public Shootings Involving Assault Weapons					
Non-AW Ban States	159.2	27	0.51	325	6.19
AW Ban States	137.1	15	0.33	119	2.63
Percentage Decrease in Rate for AW Ban States			35%		58%

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).

SUMMARY

40. It is my professional opinion, based upon my extensive review and analysis of the last 50 years of 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) mass shootings involving assault weapons, on average, have resulted in a substantially larger loss of life than similar incidents that did not involve assault weapons; (3) mass shootings resulting in double-digit fatalities are relatively modern phenomena in American history, largely related to the use of large-capacity magazines and assault weapons; (4) assault weapons are used by private citizens with a far greater frequency to perpetrate mass shootings than to stop mass shootings; and (5) jurisdictions that restrict the possession of assault weapons experience fewer mass shooting incidents and fatalities, per capita, than jurisdictions that do not restrict assault weapons. Based on these findings, it is my opinion that restrictions on assault weapons have the potential to save lives by reducing the frequency and lethality of mass shootings.

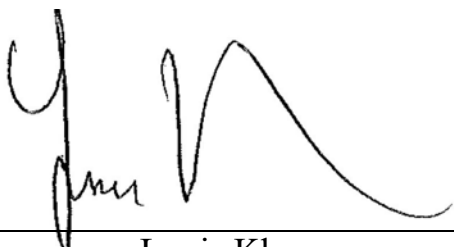
41. The main purpose of bans on assault weapons is to restrict the availability of assault weapons. The rationale is that, if there are fewer assault weapons in circulation, then potential mass shooters will either be dissuaded from attacking or they will be forced to use less-lethal firearms, resulting in fewer lives lost. The epidemiological data buttress this line of reasoning, supporting the California legislature's determination that restricting civilian access to assault weapons will enhance public safety.

42. While imposing constraints on assault weapons will not prevent all future mass shootings, the data suggest that legislative efforts to deny gunmen access to assault weapons should result in a substantial number of lives being saved.

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

2 Executed on January 6, 2023 at Nassau County, NY.

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Louis Klarevas

EXHIBIT A

Louis J. Klarevas
Email: lj2149@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)

Expert for Cook County, Illinois, *Viramontes v. County of Cook*, 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-

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

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. Couloubis)]

“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 9/1 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 Spotlighting 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. Couloumbis)

“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. Couloumbis)

“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. Couloumbis)

“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 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

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

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 (Charles Branas and Sonali 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

EXHIBIT B

Exhibit B
High-Fatality Mass Shootings in the United States, 1973-2022

	Date	City	State	Deaths	Involved Assault Weapon(s)
1	1/7/1973	New Orleans	LA	7	N
2	4/22/1973	Los Angeles	CA	7	N
3	6/9/1973	Boston	MA	6	N
4	6/21/1973	Palos Hills	IL	7	N
5	11/4/1973	Cleveland	OH	7	N
6	2/18/1974	Fayette	MS	7	N
7	10/19/1974	New Britain	CT	6	N
8	11/13/1974	Amityville	NY	6	N
9	3/30/1975	Hamilton	OH	11	N
10	10/19/1975	Sutherland	NE	6	N
11	3/12/1976	Trevese	PA	6	N
12	7/12/1976	Fullerton	CA	7	N
13	2/14/1977	New Rochelle	NY	6	N
14	7/23/1977	Klamath Falls	OR	6	Y
15	8/26/1977	Hackettstown	NJ	6	N
16	7/16/1978	Oklahoma City	OK	6	N
17	1/3/1981	Delmar	IA	6	N
18	1/7/1981	Richmond	VA	6	N
19	5/2/1981	Clinton	MD	6	N
20	8/21/1981	Indianapolis	IN	6	N
21	2/17/1982	Farwell	MI	7	N
22	8/9/1982	Grand Prairie	TX	6	N
23	8/20/1982	Miami	FL	8	N
24	9/7/1982	Craig	AK	8	N
25	9/25/1982	Wilkes-Barre	PA	13	Y
26	2/18/1983	Seattle	WA	13	N
27	3/3/1983	McCarthy	AK	6	Y
28	10/11/1983	College Station and Hempstead	TX	6	N
29	4/15/1984	Brooklyn	NY	10	N
30	5/19/1984	Manley Hot Springs	AK	8	N
31	6/29/1984	Dallas	TX	6	N
32	7/18/1984	San Ysidro	CA	21	Y
33	10/18/1984	Evansville	IN	6	N
34	8/20/1986	Edmond	OK	14	N
35	12/8/1986	Oakland	CA	6	Y
36	2/5/1987	Flint	MI	6	N

	Date	City	State	Deaths	Involved Assault Weapon(s)
37	4/23/1987	Palm Bay	FL	6	Y
38	7/12/1987	Tacoma	WA	7	N
39	9/25/1987	Elkland	MO	7	N
40	12/30/1987	Algona	IA	6	N
41	2/16/1988	Sunnyvale	CA	7	N
42	9/14/1989	Louisville	KY	8	Y
43	6/18/1990	Jacksonville	FL	9	N
44	1/26/1991	Chimayo	NM	7	N
45	8/9/1991	Waddell	AZ	9	N
46	10/16/1991	Killeen	TX	23	N
47	11/7/1992	Morro Bay and Paso Robles	CA	6	N
48	1/8/1993	Palatine	IL	7	N
49	5/16/1993	Fresno	CA	7	Y
50	7/1/1993	San Francisco	CA	8	Y
51	12/7/1993	Garden City	NY	6	N
52	4/20/1999	Littleton	CO	13	Y
53	7/12/1999	Atlanta	GA	6	N
54	7/29/1999	Atlanta	GA	9	N
55	9/15/1999	Fort Worth	TX	7	N
56	11/2/1999	Honolulu	HI	7	N
57	12/26/2000	Wakefield	MA	7	Y
58	12/28/2000	Philadelphia	PA	7	N
59	8/26/2002	Rutledge	AL	6	N
60	1/15/2003	Edinburg	TX	6	Y
61	7/8/2003	Meridian	MS	6	N
62	8/27/2003	Chicago	IL	6	N
63	3/12/2004	Fresno	CA	9	N
64	11/21/2004	Birchwood	WI	6	Y
65	3/12/2005	Brookfield	WI	7	N
66	3/21/2005	Red Lake	MN	9	N
67	1/30/2006	Goleta	CA	7	N
68	3/25/2006	Seattle	WA	6	N
69	6/1/2006	Indianapolis	IN	7	Y
70	12/16/2006	Kansas City	KS	6	N
71	4/16/2007	Blacksburg	VA	32	N
72	10/7/2007	Crandon	WI	6	Y
73	12/5/2007	Omaha	NE	8	Y
74	12/24/2007	Carnation	WA	6	N
75	2/7/2008	Kirkwood	MO	6	N

	Date	City	State	Deaths	Involved Assault Weapon(s)
76	9/2/2008	Alger	WA	6	N
77	12/24/2008	Covina	CA	8	N
78	1/27/2009	Los Angeles	CA	6	N
79	3/10/2009	Kinston, Samson, and Geneva	AL	10	Y
80	3/29/2009	Carthage	NC	8	N
81	4/3/2009	Binghamton	NY	13	N
82	11/5/2009	Fort Hood	TX	13	N
83	1/19/2010	Appomattox	VA	8	Y
84	8/3/2010	Manchester	CT	8	N
85	1/8/2011	Tucson	AZ	6	N
86	7/7/2011	Grand Rapids	MI	7	N
87	8/7/2011	Copley Township	OH	7	N
88	10/12/2011	Seal Beach	CA	8	N
89	12/25/2011	Grapevine	TX	6	N
90	4/2/2012	Oakland	CA	7	N
91	7/20/2012	Aurora	CO	12	Y
92	8/5/2012	Oak Creek	WI	6	N
93	9/27/2012	Minneapolis	MN	6	N
94	12/14/2012	Newtown	CT	27	Y
95	7/26/2013	Hialeah	FL	6	N
96	9/16/2013	Washington	DC	12	N
97	7/9/2014	Spring	TX	6	N
98	9/18/2014	Bell	FL	7	N
99	2/26/2015	Tyrone	MO	7	N
100	5/17/2015	Waco	TX	9	N
101	6/17/2015	Charleston	SC	9	N
102	8/8/2015	Houston	TX	8	N
103	10/1/2015	Roseburg	OR	9	N
104	12/2/2015	San Bernardino	CA	14	Y
105	2/21/2016	Kalamazoo	MI	6	N
106	4/22/2016	Piketon	OH	8	N
107	6/12/2016	Orlando	FL	49	Y
108	5/27/2017	Brookhaven	MS	8	Y
109	9/10/2017	Plano	TX	8	Y
110	10/1/2017	Las Vegas	NV	60	Y
111	11/5/2017	Sutherland Springs	TX	25	Y
112	2/14/2018	Parkland	FL	17	Y
113	5/18/2018	Santa Fe	TX	10	N
114	10/27/2018	Pittsburgh	PA	11	Y

	Date	City	State	Deaths	Involved Assault Weapon(s)
115	11/7/2018	Thousand Oaks	CA	12	N
116	5/31/2019	Virginia Beach	VA	12	N
117	8/3/2019	El Paso	TX	23	Y
118	8/4/2019	Dayton	OH	9	Y
119	8/31/2019	Midland and Odessa	TX	7	Y
120	3/15/2020	Moncure	NC	6	U
121	6/4/2020	Valhermoso Springs	AL	7	Y
122	9/7/2020	Aguanga	CA	7	U
123	2/2/2021	Muskogee	OK	6	N
124	3/16/2021	Acworth and Atlanta	GA	8	N
125	3/22/2021	Boulder	CO	10	Y
126	4/7/2021	Rock Hill	SC	6	Y
127	4/15/2021	Indianapolis	IN	8	Y
128	5/9/2021	Colorado Springs	CO	6	N
129	5/26/2021	San Jose	CA	9	N
130	1/23/2022	Milwaukee	WI	6	N
131	4/3/2022	Sacramento	CA	6	N
132	5/14/2022	Buffalo	NY	10	Y
133	5/24/2022	Uvalde	TX	21	Y
134	7/4/2022	Highland Park	IL	7	Y
135	10/27/2022	Broken Arrow	OK	7	N
136	11/22/2022	Chesapeake	VA	6	N

Note: High-fatality mass shootings are 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. Incidents in gray shade are those incidents that occurred at a time when and in a state where legal prohibitions on assault weapons were in effect statewide or nationwide.

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.

EXHIBIT C

Exhibit C
Mass Public Shootings in the United States, 1973-2022

	Date	City	State	Deaths	Involved Assault Weapon(s)
1	1/7/1973	New Orleans	LA	7	N
2	3/2/1975	Smith River	CA	5	N
3	7/12/1976	Fullerton	CA	7	N
4	2/14/1977	New Rochelle	NY	6	N
5	7/23/1977	Klamath Falls	OR	6	Y
6	8/26/1977	Hackettstown	NJ	6	N
7	6/17/1978	Warwick	RI	4	N
8	2/3/1980	El Paso	TX	5	N
9	6/22/1980	Daingerfield	TX	5	N
10	7/21/1980	Coraopolis	PA	4	N
11	5/7/1981	Salem	OR	4	N
12	10/16/1981	Allen	KY	5	N
13	5/3/1982	Anchorage	AK	4	N
14	8/9/1982	Grand Prairie	TX	6	N
15	8/20/1982	Miami	FL	8	N
16	2/3/1983	New York	NY	4	N
17	3/3/1983	McCarthy	AK	6	Y
18	10/11/1983	College Station and Hempstead	TX	6	N
19	5/17/1984	Manley Hot Springs	AK	8	N
20	6/29/1984	Dallas	TX	6	N
21	7/18/1984	San Ysidro	CA	21	Y
22	7/24/1984	Hot Springs	AR	5	N
23	3/16/1985	Connellsville	PA	4	N
24	8/20/1986	Edmond	OK	14	N
25	4/23/1987	Palm Bay	FL	6	Y
26	2/16/1988	Sunnyvale	CA	7	N
27	7/17/1988	Winston-Salem	NC	4	N
28	9/22/1988	Chicago	IL	4	N
29	1/17/1989	Stockton	CA	5	Y
30	9/14/1989	Louisville	KY	8	Y
31	6/18/1990	Jacksonville	FL	9	N
32	10/10/1991	Ridgewood	NJ	4	Y
33	10/16/1991	Killeen	TX	23	N
34	11/1/1991	Iowa City	IA	5	N
35	11/9/1991	Harrodsburg	KY	4	N
36	11/14/1991	Royal Oak	MI	4	N

	Date	City	State	Deaths	Involved Assault Weapon(s)
37	3/15/1992	Phoenix	AZ	4	N
38	5/1/1992	Olivehurst	CA	4	N
39	10/15/1992	Watkins Glen	NY	4	N
40	11/8/1992	Morro Bay and Paso Robles	CA	6	N
41	7/1/1993	San Francisco	CA	8	Y
42	8/6/1993	Fayetteville	NC	4	N
43	10/14/1993	El Cajon	CA	4	N
44	12/2/1993	Oxnard	CA	4	N
45	12/7/1993	Garden City	NY	6	N
46	12/14/1993	Aurora	CO	4	N
47	6/20/1994	Fairchild Air Force Base	WA	4	Y
48	12/31/1994	Raeform	NC	5	N
49	4/3/1995	Corpus Christi	TX	5	N
50	7/19/1995	Los Angeles	CA	4	N
51	12/19/1995	Bronx	NY	5	N
52	2/9/1996	Fort Lauderdale	FL	5	N
53	4/24/1996	Jackson	MS	5	Y
54	8/19/1997	Colebrook	NH	4	Y
55	9/15/1997	Aiken	SC	4	N
56	12/3/1997	Bartow	FL	4	N
57	12/18/1997	Orange	CA	4	Y
58	3/6/1998	Rocky Hill	CT	4	N
59	3/24/1998	Jonesboro	AR	5	N
60	5/20/1998	Springfield	OR	4	N
61	3/10/1999	Gonzalez	LA	4	N
62	4/20/1999	Littleton	CO	13	Y
63	6/3/1999	Las Vegas	NV	4	N
64	7/29/1999	Atlanta	GA	9	N
65	9/15/1999	Fort Worth	TX	7	N
66	11/2/1999	Honolulu	HI	7	N
67	12/30/1999	Tampa	FL	5	N
68	3/20/2000	Irving	TX	5	N
69	4/28/2000	Pittsburgh	PA	5	N
70	12/26/2000	Wakefield	MA	7	Y
71	1/9/2001	Houston	TX	4	N
72	2/5/2001	Lisle	IL	4	Y
73	7/3/2001	Rifle	CO	4	N
74	9/8/2001	Sacramento	CA	5	Y
75	3/22/2002	South Bend	IN	4	N

	Date	City	State	Deaths	Involved Assault Weapon(s)
76	2/25/2003	Huntsville	AL	4	N
77	7/8/2003	Meridian	MS	6	N
78	8/27/2003	Chicago	IL	6	N
79	10/24/2003	Oldtown	ID	4	N
80	7/2/2004	Kansas City	KS	5	N
81	11/21/2004	Birchwood	WI	6	Y
82	12/8/2004	Columbus	OH	4	N
83	3/11/2005	Atlanta	GA	4	N
84	3/12/2005	Brookfield	WI	7	N
85	3/21/2005	Red Lake	MN	9	N
86	8/28/2005	Honey Grove	TX	4	N
87	1/30/2006	Goleta	CA	7	N
88	3/25/2006	Seattle	WA	6	N
89	5/21/2006	Baton Rouge	LA	5	N
90	10/2/2006	Paradise	PA	5	N
91	2/12/2007	Salt Lake City	UT	5	N
92	4/16/2007	Blacksburg	VA	32	N
93	12/5/2007	Omaha	NE	8	Y
94	12/9/2007	Arvada	CO	4	Y
95	2/7/2008	Kirkwood	MO	6	N
96	2/14/2008	DeKalb	IL	5	N
97	3/18/2008	Santa Maria	CA	4	N
98	6/25/2008	Henderson	KY	5	N
99	9/2/2008	Alger	WA	6	N
100	3/29/2009	Carthage	NC	8	N
101	4/3/2009	Binghamton	NY	13	N
102	11/1/2009	Mount Airy	NC	4	Y
103	11/5/2009	Killeen	TX	13	N
104	11/29/2009	Tacoma	WA	4	N
105	4/3/2010	North Hollywood	CA	4	N
106	6/6/2010	Hialeah	FL	4	N
107	8/3/2010	Manchester	CT	8	N
108	8/14/2010	Buffalo	NY	4	N
109	9/11/2010	Jackson	KY	5	N
110	1/8/2011	Tucson	AZ	6	N
111	8/7/2011	Copley Township	OH	7	N
112	9/6/2011	Carson City	NV	4	Y
113	10/12/2011	Seal Beach	CA	8	N
114	4/2/2012	Oakland	CA	7	N

	Date	City	State	Deaths	Involved Assault Weapon(s)
115	5/30/2012	Seattle	WA	5	N
116	7/20/2012	Aurora	CO	12	Y
117	8/5/2012	Oak Creek	WI	6	N
118	9/27/2012	Minneapolis	MN	6	N
119	12/14/2012	Newtown	CT	27	Y
120	3/13/2013	Herkimer	NY	4	N
121	4/21/2013	Federal Way	WA	4	N
122	6/7/2013	Santa Monica	CA	5	Y
123	7/26/2013	Hialeah	FL	6	N
124	9/16/2013	Washington	DC	12	N
125	2/20/2014	Alturas	CA	4	N
126	10/24/2014	Marysville	WA	4	N
127	6/17/2015	Charleston	SC	9	N
128	7/16/2015	Chattanooga	TN	5	Y
129	10/1/2015	Roseburg	OR	9	N
130	11/14/2015	Palestine	TX	5	N
131	12/2/2015	San Bernardino	CA	14	Y
132	2/20/2016	Kalamazoo	MI	6	N
133	3/9/2016	Wilksburg	PA	5	Y
134	6/12/2016	Orlando	FL	49	Y
135	7/7/2016	Dallas	TX	5	Y
136	9/23/2016	Burlington	WA	5	N
137	1/6/2017	Fort Lauderdale	FL	5	N
138	2/6/2017	Yazoo City	MS	4	U
139	3/22/2017	Rothschild	WI	4	N
140	6/5/2017	Orlando	FL	5	N
141	10/1/2017	Las Vegas	NV	60	Y
142	11/5/2017	Sutherland Springs	TX	25	Y
143	11/14/2017	Corning and Rancho Tehama	CA	5	Y
144	1/28/2018	Melcroft	PA	4	Y
145	2/14/2018	Parkland	FL	17	Y
146	2/26/2018	Detroit	MI	4	N
147	4/22/2018	Antioch	TN	4	Y
148	5/18/2018	Santa Fe	TX	10	N
149	6/28/2018	Annapolis	MD	5	N
150	9/12/2018	Bakersfield	CA	5	N
151	10/27/2018	Pittsburgh	PA	11	Y
152	11/7/2018	Thousand Oaks	CA	12	N
153	1/23/2019	Sebring	FL	5	N

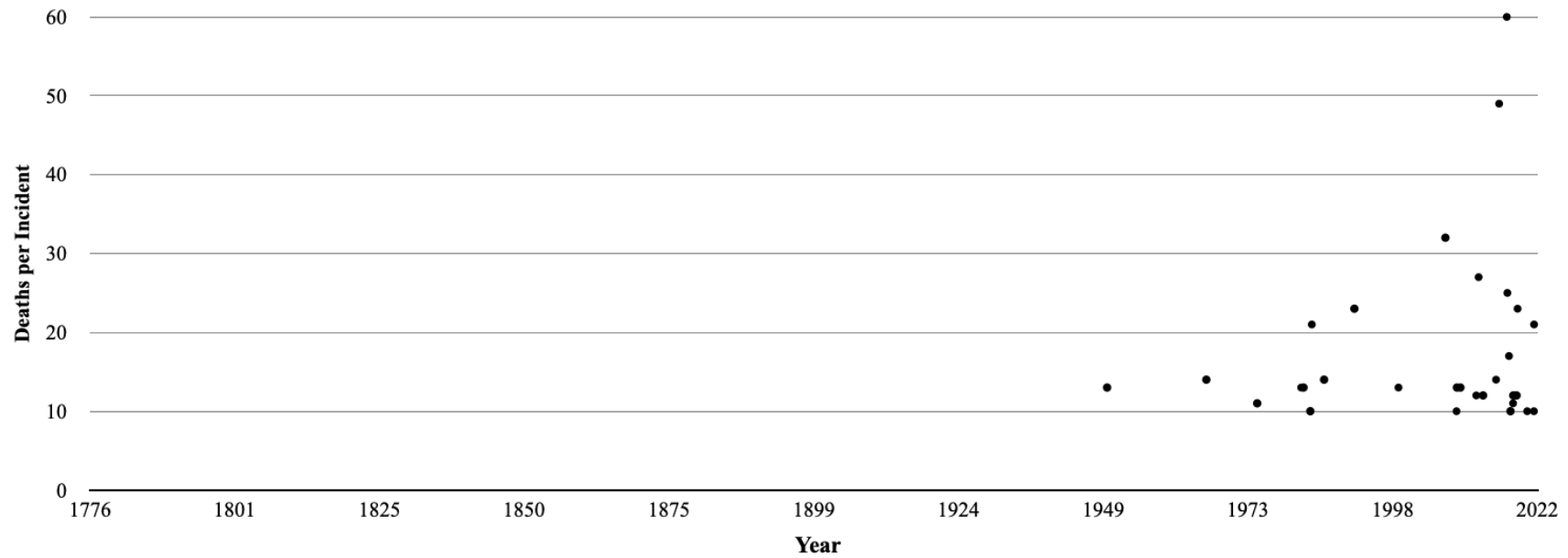
	Date	City	State	Deaths	Involved Assault Weapon(s)
154	2/15/2019	Aurora	IL	5	N
155	5/31/2019	Virginia Beach	VA	12	N
156	8/3/2019	El Paso	TX	23	Y
157	8/4/2019	Dayton	OH	9	Y
158	8/31/2019	Midland and Odessa	TX	7	Y
159	12/10/2019	Jersey City	NJ	4	Y
160	2/26/2020	Milwaukee	WI	5	N
161	3/15/2020	Springfield	MO	4	Y
162	1/9/2021	Chicago and Evanston	IL	5	N
163	3/16/2021	Atlanta	GA	8	N
164	3/22/2021	Boulder	CO	10	Y
165	3/31/2021	Orange	CA	4	N
166	4/15/2021	Indianapolis	IN	8	Y
167	5/26/2021	San Jose	CA	9	N
168	11/30/2021	Oxford	MI	4	N
169	5/14/2022	Buffalo	NY	10	Y
170	5/24/2022	Uvalde	TX	21	Y
171	6/1/2022	Tulsa	OK	4	Y
172	7/4/2022	Highland Park	IL	7	Y
173	10/13/2022	Raleigh	NC	5	N
174	11/19/2022	Colorado Springs	CO	5	Y
175	11/22/2022	Chesapeake	VA	6	N

Notes: Mass public shootings are shootings resulting in 4 or more fatalities, not including the perpetrator(s), so long as the act of violence occurred largely in a public setting and was not undertaken in pursuit of an underlying criminal objective. 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. Incidents in gray shade are those incidents that occurred at a time when and in a state where legal prohibitions on assault weapons were in effect statewide or nationwide.

Source: The Violence Project. The source for the comprehensive data set is: The Violence Project, "Mass Shooter Database," 2023, available at <https://www.theviolenceproject.org/mass-shooter-database> (last accessed January 3, 2023).

EXHIBIT D

Mass Shootings Resulting in Double-Digit Fatalities in American History (1776-2022)



Mass Shootings Resulting in Double-Digit Fatalities in American History (1949-2022)

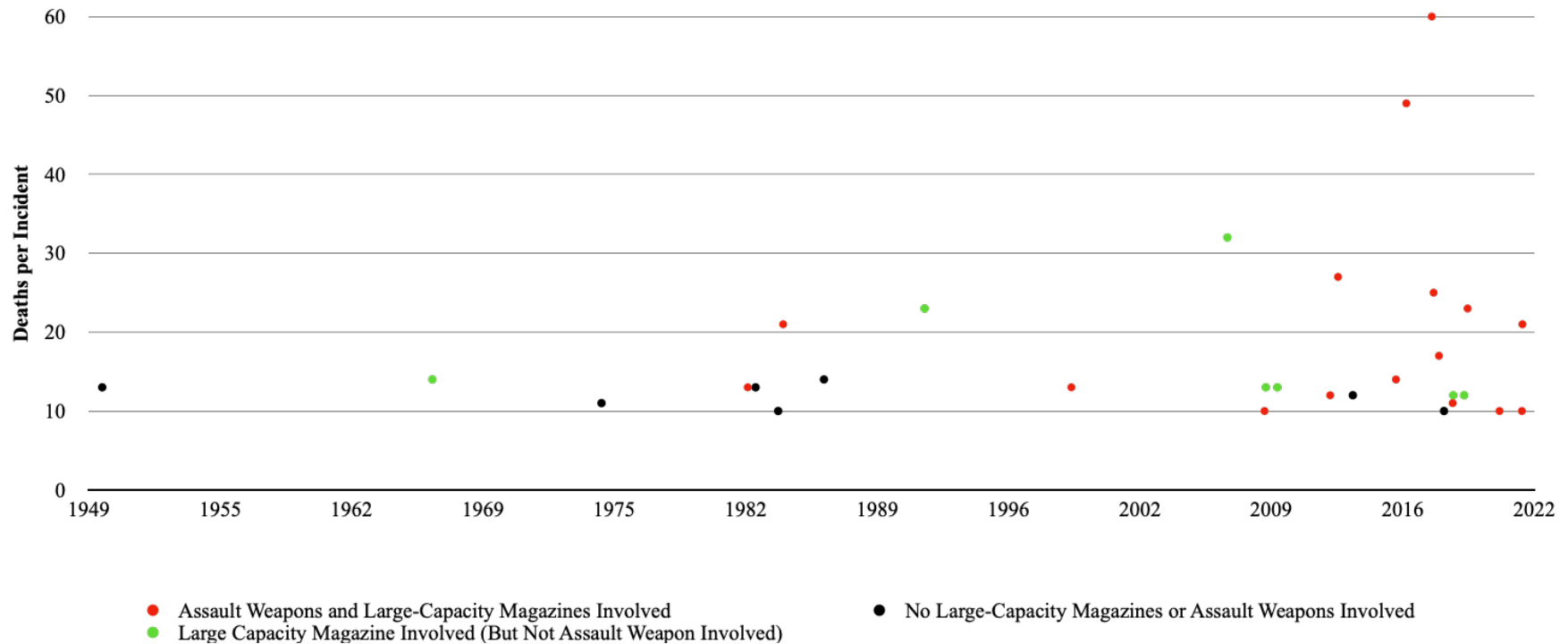


EXHIBIT E

LOUIS KLAREVAS
RAMPAGE NATION
SECURING AMERICA FROM MASS SHOOTINGS

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BREAKING THE TRINITY 239

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

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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

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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



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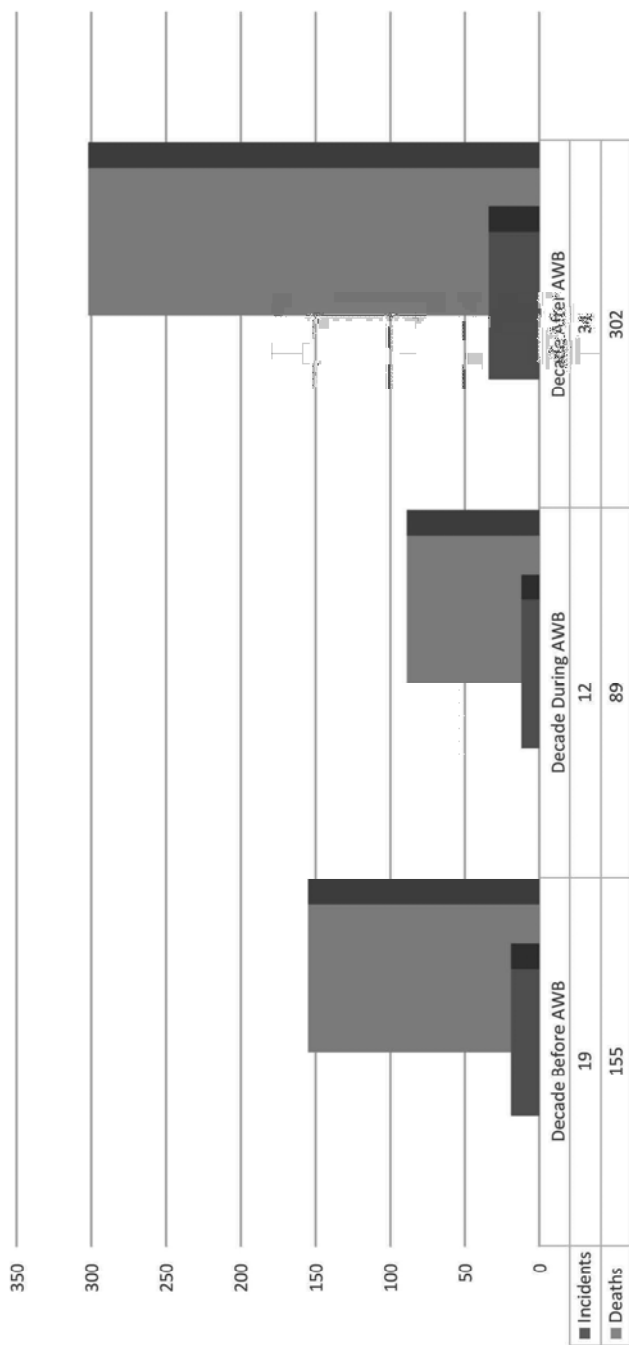


Fig. 7.2. Gun Massacres by Decade Before, During, and After the Assault Weapons Ban of 1994.
 Note: The Assault Weapons Ban was in effect from September 13, 1994, through September 12, 2004.
 The data are drawn from Table 3.2.

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

EXHIBIT F

The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990–2017

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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

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harm'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 R^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.

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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.

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EXHIBIT G

Changes in US mass shooting deaths associated with the 1994–2004 federal assault weapons ban: Analysis of open-source data

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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

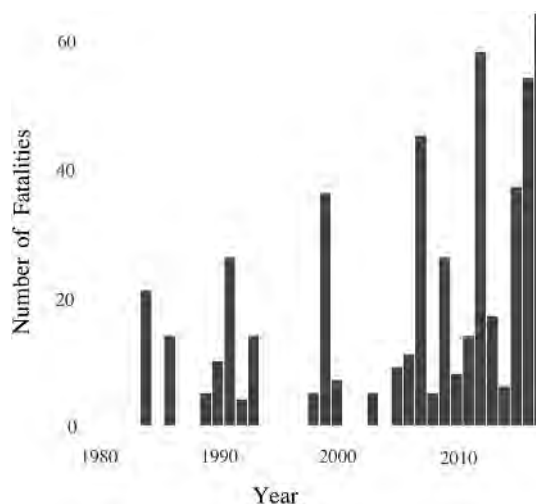


Figure 1. Mass shooting deaths. United States 1981–2017.

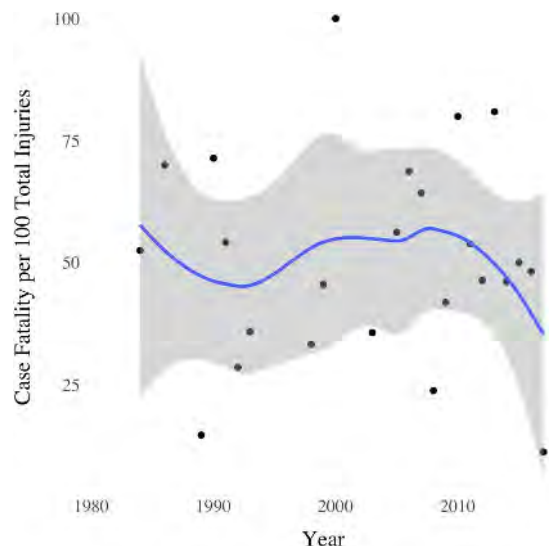


Figure 2. Case fatality per 100 total mass-shooting injuries with loess smoothing line for trend and standard error bounds. United States 1981–2017.

(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

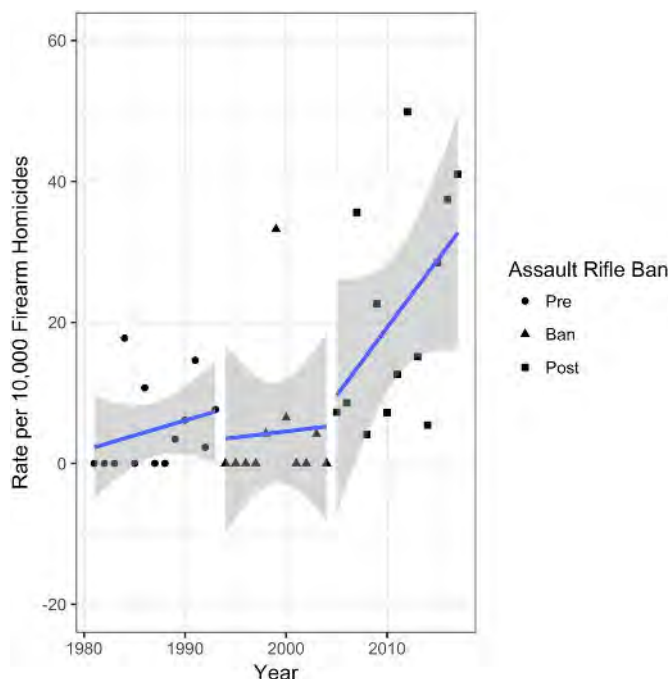


Figure 3. Mass shooting deaths per 10,000 firearm-related homicides with linear trends for preban, ban, and postban periods. United States 1981–2017.

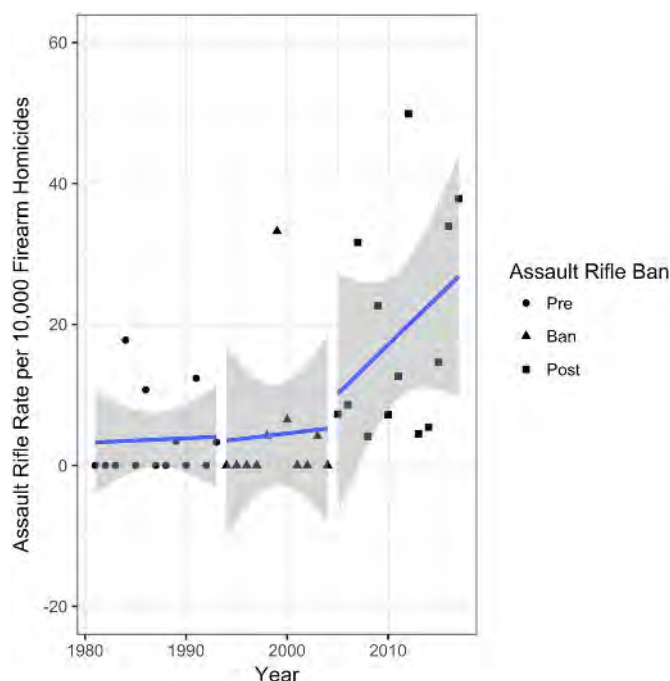


Figure 4. Mass-shooting shooting deaths per 10,000 firearm-related homicides restricted to incidents involving assault weapons with linear trends for preban, ban, and postban periods. United States 1981–2017.

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, 1981–2017.

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.
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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.

EXHIBIT H

Original Paper

Impact of Firearm Surveillance on Gun Control Policy: Regression Discontinuity Analysis

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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.

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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

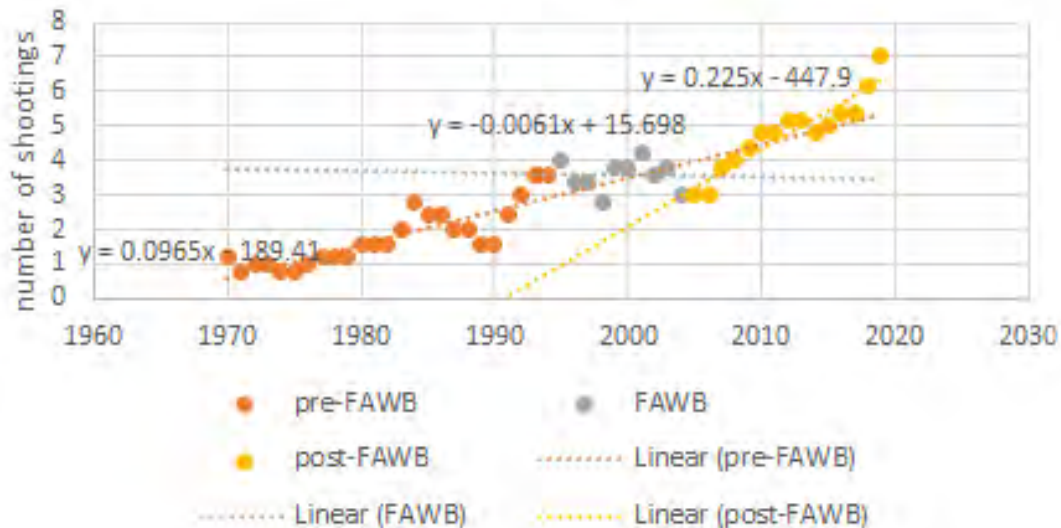
sample” exercise because even though the sample extends to 2019, the FAWB ended in 2004; thus, this exercise would not pick up events in the past 15 years that would have augmented or compromised the effects of the FAWB. The difference between the modeled number of public mass shootings and the projected 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.

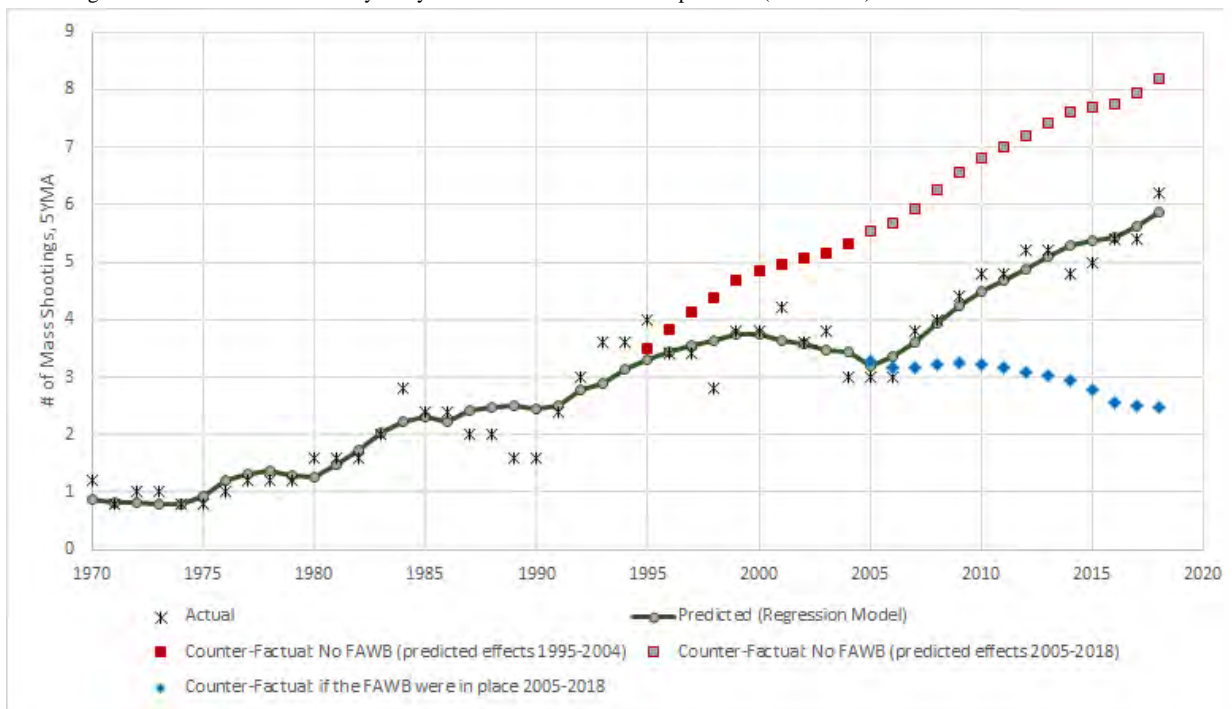
The regression results showed excellent explanatory power ($R^2=0.94$). The coefficient on population was positive and statistically significant (.044, $P<.001$). This coefficient means that for every increase in population of 1 million people, there are an additional .044 public mass shooting events 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].

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Conflicts of Interest

None declared.

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Abbreviations

FAWB: Federal Assault Weapons Ban
FBI: Federal Bureau of Investigation
LCM: large-capacity magazine

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EXHIBIT I

VIEWPOINT

Regulating Assault Weapons and Large-Capacity Magazines for Ammunition

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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

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 approxi-

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

mately 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.

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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 reinstituted 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.

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EXHIBIT 55

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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 **STEVEN RUPP; STEVEN**
16 **DEMBER; CHERYL JOHNSON;**
17 **MICHAEL JONES;**
18 **CHRISTOPHER SEIFERT;**
19 **ALFONSO VALENCIA; TROY**
WILLIS; and CALIFORNIA RIFLE
& PISTOL ASSOCIATION,
INCORPORATED,

20 Plaintiffs,

21 v.

22 **ROB BONTA, in his official capacity**
23 **as Attorney General of the State of**
California; and DOES 1-10,

24 Defendants.
25

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL SUR-
REBUTTAL EXPERT REPORT
AND DECLARATION OF LOUIS
KLAREVAS**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

26 ¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the
27 Attorney General of the State of California. Pursuant to Federal Rule of Civil
28 Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as
the defendant in this case.

1 **SUPPLEMENTAL SUR-REBUTTAL EXPERT REPORT AND**
2 **DECLARATION OF LOUIS KLAREVAS**

3 I, Louis Klarevas, declare under penalty of perjury that the following is true
4 and correct:

5 1. Plaintiffs’ witness Gary Kleck has submitted an expert witness rebuttal
6 report responding, in part, to my expert findings and opinions in the present case
7 (“Kleck Rebuttal Report”).² This sur-rebuttal expert report and declaration (“Sur-
8 Rebuttal”) responds to paragraphs 47 through 69 of the Kleck Rebuttal Report, the
9 section that pertains directly to my supplemental expert report and declaration
10 submitted in this matter on January 6 (“Klarevas Supplemental Report”).³ I shall
11 address Kleck’s rebuttal opinions in the order that he presents them.

12 2. This Sur-Rebuttal Report is based on my own personal knowledge and
13 experience, and, if I am called as a witness, I could and would testify competently
14 to the truth of the matters discussed in it.

15 **I. MASS SHOOTINGS ARE A THREAT TO PUBLIC SAFETY**

16 3. *Kleck Rebuttal Opinion #1*: Mass shootings, in the aggregate, do not
17 constitute the most serious threat to public safety.

18 4. Purportedly quoting my Supplemental Report, Kleck writes, “However
19 horrific individual mass shootings may be, it is absurd to describe their threat to the
20 safety of Americans as ‘*the greatest threat ... to the ... safety of American society*
21 *in the present era.*’”⁴ Kleck provides no page citation for this quotation because
22 this quote does not appear in my Supplemental Report. What I actually wrote in

23 ² Expert Witness Rebuttal Report of Gary Kleck, *Rupp v. Bonta*, Case No.:
24 8:17-cv-00746-JLS-JDE (C.D. Cal.), February 3, 2023 (“Kleck Rebuttal Report”
hereinafter).

25 ³ Supplemental Expert Report and Declaration of Louis Klarevas, *Rupp v.*
26 *Bonta*, Case No.: 8:17-cv-00746-JLS-JDE (C.D. Cal.), January 6, 2023 (“Klarevas
27 Supplemental Report” hereinafter). My background and qualifications, including
my CV, are available in *ibid*.

28 ⁴ Kleck Rebuttal Report, para. 48; emphasis added.

1 my Supplemental Report is that “the deadliest individual acts of intentional
2 criminal violence in the United States since the terrorist attack of September 11,
3 2001, have all been mass shootings.”⁵ This is not merely an opinion. It is a fact.
4 In the post-9/11 era, *in terms of individual acts*, no other form of intentional
5 criminal violence has been deadlier than the mass shooting.⁶

6 5. If Kleck’s point is that there are things that, *in the aggregate*, kill more
7 Americans than mass shootings, that would be accurate. After all, annually, nearly
8 700,000 Americans will die from heart disease, and approximately 600,000
9 Americans will die from cancer.⁷

10 6. But this does not appear to be Kleck’s overarching point. Instead,
11 Kleck writes, “we can state the seriousness of the threat to the safety of
12 American[s] by computing the fraction who will be killed in a ‘gun massacre’ in a
13 given year.”⁸ Kleck then attempts to dismiss “the seriousness of the threat” of mass
14 shootings by comparing the odds of dying in a gun massacre (which in the
15 academic literature is also known as a “high-fatality mass shooting” that results in 6
16
17

18 ⁵ Klarevas Supplemental Report, para. 6.

19 ⁶ In his Rebuttal Report, apparently citing p. 5 of my Supplemental Report,
20 Kleck claims, “[Klarevas] documented 113 ‘gun massacres’ (which he defines as
21 incidents involving 6 or more dead), in which 1,009 people were killed, over the
22 period from 1968 through September 2017.” Kleck Rebuttal Report, para. 48. The
23 section of my Supplemental Report that Kleck is referencing covered January 1,
24 1973, through December 31, 2022, not “1968 through September 2017.” This
25 section of my Supplemental Report not only examined gun massacres, but also
26 mass public shootings, identifying 50-year patterns for the 136 gun massacres (also
27 known as “high-fatality mass shootings”) that resulted in 1,253 deaths and the 175
28 mass public shootings that resulted in 1,259 deaths. *See*, Klarevas Supplemental
Report, para. 13 and Exhibits. B-C. The statistics that Kleck attributes to me in
para. 48 of his Rebuttal Report do not appear in my Supplemental Report.

⁷ Centers for Disease Control and Prevention, “Wide-ranging ONLINE Data
for Epidemiologic Research (WONDER),” *available at* wonder.cdc.gov (last
accessed February 20, 2023).

⁸ Kleck Rebuttal Report, para. 49

1 or more victims killed) to the odds of dying in a lightning strike.⁹ This is a bizarre
2 exercise for a couple of reasons.

3 7. For starters, why compare high-fatality mass shootings (which have a
4 minimum fatality threshold of 6 deaths) to lightning strikes (which do not have a
5 minimum fatality threshold)? Why not instead compare high-fatality mass
6 shootings to high-fatality lightning strikes? Or, alternatively, why not compare all
7 shooting deaths to all lightning-strike deaths? Perhaps the answer lies in the fact
8 that such symmetrical comparisons would establish that lightning strikes are not
9 deadlier than gun violence—not even close—thus undermining Kleck’s entire
10 point. For instance, comparing high-fatality mass shootings resulting in 6 or more
11 victims killed to high-fatality lightning strikes resulting in 6 or more victims killed
12 would show that, between 2001-2021, there were 71 such mass shootings, resulting
13 in 736 cumulative deaths, compared to no such lightning strikes, resulting in zero
14 cumulative deaths.¹⁰ Similarly, using the same timeframe of 2001-2021, comparing
15 all shooting deaths to all lightning-strike deaths would show that the former
16 resulted in a total of 728,278 deaths and the latter resulted in a total of 700 deaths.¹¹

17 8. Next, and arguably more relevant, it appears that this exercise of
18 comparing mass shootings to lightning strikes is meant to suggest that addressing
19 mass shootings should not be a policy priority. I counted at least six occasions in
20 his Rebuttal Report where Kleck advanced an argument that “mass shootings are
21 rare,” including at one point insisting that being killed in a gun massacre is
22 comparable to “being killed by a bolt of lightning—itself a freakishly rare event.”¹²
23 Bombings on American soil occur with far less frequency than mass shootings. So
24 too do hijackings of commercial airliners for purposes of crashing them into critical
25

26 ⁹ *Ibid.*

27 ¹⁰ CDC, *supra* note 7.

28 ¹¹ *Ibid.*

¹² Kleck Rebuttal Report, paras. 11, 13-14, 29, 49, 52.

1 infrastructures, which are arguably the rarest of all acts of violence in United States
2 history, having occurred only once. By Kleck's reasoning, these events are not
3 appropriate targets for policy interventions on account of their relative infrequency.

4 9. Frequency of occurrence is not a reason to dismiss a threat to public
5 health, societal safety, or homeland security. Just like securing America's
6 infrastructure, public spaces, and airspace are important public policy objectives, so
7 too is securing America's citizenry from mass-casualty acts of gun violence, which
8 in the post-9/11 era have accounted for the deadliest individual acts of criminal
9 violence in the United States.

10 **II. MASS SHOOTING VIOLENCE IS ON THE RISE**

11 10. *Kleck Rebuttal Opinion #2*: There is no upward trend in the frequency
12 of mass shootings in recent years.

13 11. Next, Kleck attempts to disprove my analysis which found that mass
14 shooting violence is on the rise. His rebuttal on this point is flawed for two reasons.

15 12. First, Kleck asserts that my conclusion that there is "an upward trend"
16 is the result of "narrowing [my] focus to just a tiny subset of mass shootings—cases
17 in which 10 or more victims were killed."¹³ Kleck then acknowledges, "There was
18 indeed an upward trend in this subset."¹⁴ But, according to Kleck, "the numbers
19 involved are so small that any statements about trends are trivial and not indicative
20 of any increase in the aggregate level of threat to Americans' safety."¹⁵ Leaving
21 aside his claim that 30 mass shootings resulting in double-digit fatalities is a
22 "small" number that results in "trivial" trends, Kleck ignores my parallel findings
23 drawing on two distinct, larger data sets of high-fatality mass shootings (resulting
24 in six or more fatalities, regardless of location or motive) and mass public shootings
25 (resulting in four or more fatalities in an incident that primarily occurs in a public

26 ¹³ *Ibid.*, para. 51.

27 ¹⁴ *Ibid.*

28 ¹⁵ *Ibid.*

1 setting and is unrelated to an underlying criminal activity) to establish an upward
2 trend. Whether examining the 136 high-fatality mass shootings that resulted in
3 1,253 deaths or the 175 mass public shootings that resulted in 1,259 deaths, the
4 upward trends across the last 50 years (1973-2022) are undeniable.¹⁶ Yet, Kleck
5 ignores this entire section of my Supplemental Report and, instead, misrepresents
6 my conclusion that mass shooting violence is on the rise as being based on a single
7 data set that he feels is “so small that any statements about trends are trivial.”¹⁷

8 13. Second, Kleck insists that if we use a totally different—fourth—data
9 set, “it shows no meaningful trend of any kind.”¹⁸ The data set that Kleck
10 references is maintained by the Gun Violence Archive (GVA). The GVA uses a
11 broad definition of mass shootings: an incident resulting in four or more people
12 being shot, regardless of whether the wounds are fatal or non-fatal.¹⁹ In his
13 Rebuttal Report, Kleck argues, “The most comprehensive listing of *all* mass
14 shootings ... can be found in the Gun Violence Archive.”²⁰ The contribution of the
15 GVA to the identification of mass shootings, broadly defined, is indeed valuable.
16 However, GVA data is limited for two reasons: 1) the GVA data set does not
17 contain any incidents that occurred prior to 2013; and 2) the GVA data set does not
18 systematically identify the instruments of violence that were used in mass
19 shootings. Because of these two limitations, GVA data is not particularly useful for
20 tracking the use of assault weapons and large-capacity magazines (LCMs) in mass
21 shootings, especially over a period of time going back to January 1, 1990, when
22 California became the first state to institute an assault weapons ban.

23
24 ¹⁶ Klarevas Supplemental Report, Figs. 1-4 and Exhibits B-C.

25 ¹⁷ Kleck Rebuttal Report, para. 51.

26 ¹⁸ *Ibid.*, para. 50.

27 ¹⁹ Gun Violence Archive, “General Methodology,” *available at*
<https://www.gunviolencearchive.org/methodology> (last accessed February 20,
2023).

28 ²⁰ Kleck Rebuttal Report, para. 17; emphasis in original.

1 14. Nevertheless, Kleck appears to be of the view that 9 years of GVA
2 data is more robust than the three mass shooting data sets I consulted, which each
3 span at a minimum 50 years of data. Again, Kleck's approach to this issue is
4 problematic, resulting in flawed conclusions.

5 15. To begin with, Kleck lauds the GVA data set. But then, *without any*
6 *explanation*, Kleck opts not to use the full GVA data set. The GVA captures all
7 shootings resulting in four or more casualties, regardless of whether the casualties
8 are fatal or non-fatal. Kleck instead chose to limit his analysis of GVA data to
9 shootings resulting in four or more fatalities, excluding the hundreds of cases in the
10 GVA data set that occur annually that do not result in a minimum of four deaths.
11 Without explaining why he does this, his decision appears to be arbitrary.²¹ What
12 would the data show if the full GVA data set were plotted in a chronological
13 fashion? Figure 1a provides the answer. As can be seen, tracking all the incidents
14 in the GVA data set results in the undeniable conclusion that mass shootings,
15 broadly defined, have occurred with increased frequency in the past decade. Kleck,
16 however, insists on assessing only those incidents in the GVA data set that resulted
17 in four or more deaths. But even limiting the data points to this casualty threshold
18 still results in an upward trend between 2014 and 2022, as shown in Figure 1b.

19
20
21
22
23 ²¹ In the past, Kleck has defined mass shootings as involving more than six
24 casualties. In a 2016 article, he noted that "The six-victim cutoff was used because
25 an offender could shoot as many as six persons using a typical old-fashioned six-
26 shot revolver." As he explained, he "did not employ the oft-used definition of
27 'mass murder' as a homicide in which four or more victims were killed, because
28 most of these involve just four to six victims, which could therefore have involved
as few as six rounds fired, a number that shooters using even ordinary revolvers are
capable of firing without reloading." Gary Kleck, "Large-Capacity Magazines and
the Casualty Counts in Mass Shootings: The Plausibility of Linkages," 17 *Justice
Research and Policy* 28 (2016), at 33; internal citations omitted.

Figure 1. Gun Violence Archive (GVA) Annual Mass Shooting Trends

Figure 1a. GVA Mass Shootings (4+Shot), 2014-2022

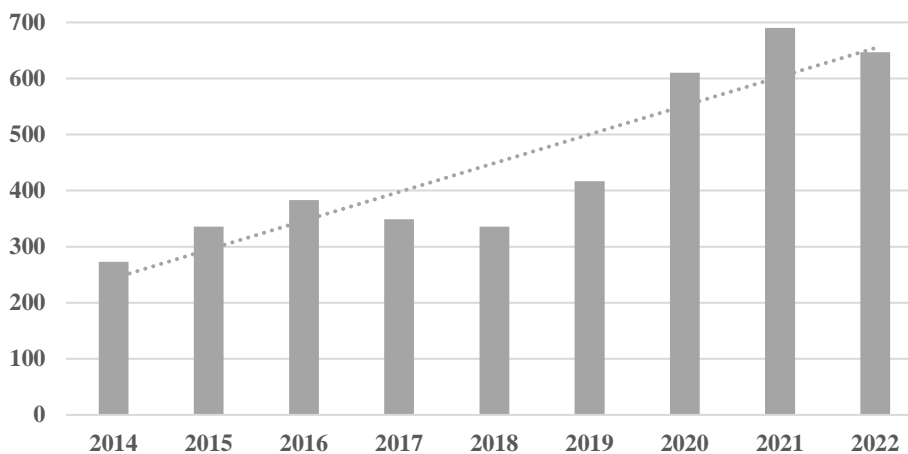
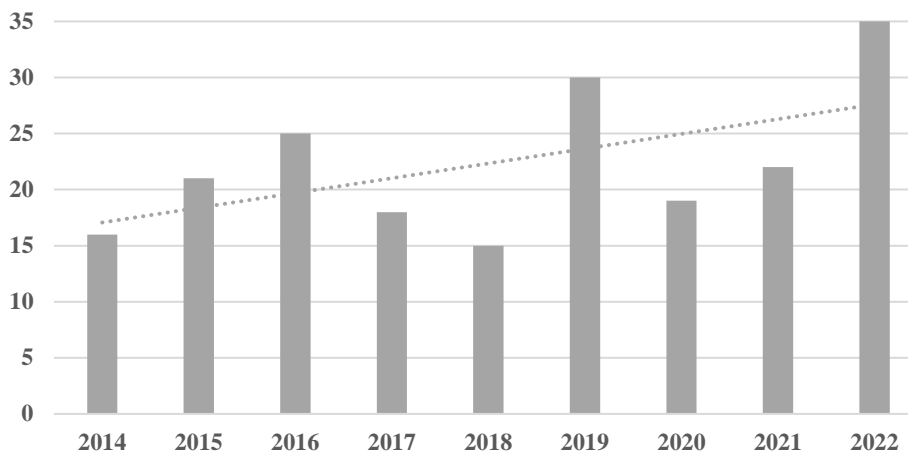


Figure 1b. GVA Mass Shootings (4+Killed), 2014-2022 [Kleck *Rupp* Rebuttal Report]



16. Kleck's analysis is suspect for another reason as well. In an expert declaration filed in *Duncan v. Bonta*, Kleck identified 222 mass shootings between 2013 and 2021 resulting in four or more deaths in the GVA data set.²² In his present Rebuttal Report, Kleck identified 201 mass shootings between 2014 and 2022 resulting in four or more deaths in the GVA data set.²³ Mysteriously, the 25 incidents from 2013 that Kleck identified in his *Duncan* declaration have disappeared from his current Rebuttal Report (*see* Figure 2). But Kleck has added

²² Declaration of Gary Kleck in Support of Plaintiffs' Supplemental Brief, *Duncan v. Bonta*, Case No.: 17-cv-1017-BEN-JLB (S.D. Cal.), December 1, 2022, Table 1.

²³ Kleck Rebuttal Report, Table 1.

35 incidents from 2022. Accounting for new data points that were previously unavailable is an appropriate methodological approach. But it is unclear why Kleck removed the incident data points from 2013. Regardless, if Kleck's numbers were consistent, he should list 232 incidents from 2014 through 2022 ($222-25+35=232$). However, Kleck now claims that, according to the GVA, there have been only 201 mass shootings resulting in 4 or more people killed from 2014 through 2022. Clearly, there is a data mismatch between his two analyses (his *Duncan* Declaration and his Rebuttal Report in the present case), meaning that *at least* one of them must be incorrect.

Figure 2. Kleck Tables on Gun Violence Archive Mass Shootings (4+ Killed)

Figure 2a. Kleck Table 1 [*Duncan* Supplemental Declaration]

Table 1 – Prevalence of LCM Use in All Mass Shootings, 2013-2021

Year	Mass Shootings	LCM-involved Mass Shootings
2013	25	2
2014	20	0
2015	26	4
2016	25	4
2017	24	4
2018	22	3
2019	31	4
2020	21	0
2021	28	5
2013-2021	222	26

Figure 2b. Kleck Table 1 [*Duncan* Supplemental Declaration]

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

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

1 17. Nevertheless, whether one examines the three distinct data sets that I
2 reviewed in my Supplemental Report, the full GVA data set, or the GVA subset
3 that Kleck identified in his present Rebuttal Report—five different data sets in all—
4 the outcome is the same. All five data sets, including the two GVA data sets
5 plotted in this Sur-Rebuttal, support my conclusion that mass shooting violence is
6 on the rise (*see* Figure 1).

7 **III. ASSAULT WEAPONS ARE ALMOST NEVER USED BY PRIVATE CITIZENS**
8 **IN SELF-DEFENSE DURING ACTIVE SHOOTINGS**

9 18. *Kleck Rebuttal Opinion #3*: The use of assault weapons to stop mass
10 shootings is irrelevant to the debate about the merits of restrictions on assault
11 weapons.

12 19. As established in my Supplemental Report, “assault weapons are used
13 by civilians with a far greater frequency to perpetrate mass shootings than to stop
14 mass shootings.”²⁴ Kleck does not dispute this fact. Instead, he considers it
15 “irrelevant.”²⁵ Particularly, Kleck argues that the use of assault weapons to stop
16 mass shootings is not “an important issue” because the instances where private
17 citizens used assault weapons in self-defense during an attempted mass shooting
18 “are just too small for the issue to be important.”²⁶ While this is Kleck’s
19 unsubstantiated personal opinion, the fact remains that assault weapons are rarely
20 used to stop active shootings and are, instead, used much more frequently in high-
21 fatality mass shootings and mass public shootings.

22
23
24
25
26 ²⁴ Klarevas Supplemental Report, para. 27.

27 ²⁵ Kleck Rebuttal Report, para. 53.

28 ²⁶ *Ibid.*

IV. AR- AND AK-PLATFORM ASSAULT RIFLES ARE USED IN MASS SHOOTINGS AT RATES THAT ARE SUBSTANTIALLY GREATER THAN THE RATES AT WHICH THESE ASSAULT RIFLES CIRCULATE IN THE CIVILIAN FIREARM STOCK

20. *Kleck Rebuttal Opinion #4*: There does not appear to be a greater preference for using assault weapons among mass shooters than among noncriminal gun owners.

21. In a strawman argument, Kleck accuses me of making “an assertion of a greater preference for *using* AWs among mass shooters than among noncriminal gun owners.”²⁷ I do not claim that assault weapons are *used* by mass shooters with greater frequency than they are *used* by noncriminal gun owners. I never advanced such a view for a simple reason: with one exception, I am unaware of any data on the frequency with which noncriminal gun owners have actually used assault weapons. Indeed, Kleck provides no such data in his Rebuttal Report. The only data of which I am aware on the frequency with which assault weapons have been actually used is the data that I just discussed in the previous section on defensive gun uses (DGUs) during active shooter incidents. As I documented in my Supplemental Report, according to official FBI reports, only 15 (3.7%) of all 406 active shooter incidents between 2000 and 2021 involved a private citizen intervening with a personal firearm, and, of these 15 DGU incidents, only 1 (6.7%) involved an assault weapon. In other words, of the 406 active shooter incidents, only 1 (0.2%) involved a private citizen intervening with an assault weapon.²⁸

22. Again, Kleck is not disputing the accuracy of the FBI data on civilian DGUs in active shootings. Moreover, he does not provide any evidence that contradicts my finding that the use of assault weapons, as a share of all firearms used, in both high-fatality mass shootings and mass public shootings, has increased

²⁷ *Ibid.*, para. 54; emphasis added.

²⁸ Klarevas Supplemental Report, para. 26.

1 in the last 50 years. Nor does he offer any evidence that contradicts my finding that
2 assault weapons have been used in at least half of all high-fatality mass shootings
3 and mass public shootings in the past 5 years.²⁹ Kleck is instead arguing that I
4 provide “no basis for an assertion of a greater preference for *using* AWs among
5 mass shooters than among noncriminal gun owners.”³⁰ But as just discussed, I
6 never advanced such an assertion in my Supplemental Report.³¹ What I did claim
7 is the following:

8 If assault weapons were used in proportion to the percentage of
9 modern sporting rifles [MSRs] in circulation, approximately 5% of all
10 mass shootings would involve assault weapons. However, ... civilian
11 ownership rates and mass-shooter use rates are not similar. Indeed,
12 the difference is approximately ten-fold, with the rate at which assault
weapons are now used to commit mass murder far outpacing the rate
at which [MSRs] circulate amongst civilians in the United States.³²

13 **V. THE USE OF ASSAULT WEAPONS IN MASS SHOOTINGS RESULTS, ON**
14 **AVERAGE, IN SUBSTANTIALLY MORE DEATHS**

15 23. *Kleck Rebuttal Opinion #5*: It is not established that the use of assault
16 weapons causes an increase in the casualty counts of mass shootings.

19 ²⁹ *Ibid.*, Figs. 5-6.

20 ³⁰ Kleck Rebuttal Report, para. 54; emphasis added.

21 ³¹ Kleck also offers a confusing and tortured strawman argument accusing me
22 of making a “suggested assertion that the rise in double-digit mass shootings
23 corresponded in time to the rising popularity or availability of *semi-auto guns*.”
Kleck Rebuttal Report, para. 59; emphasis added. I never discussed semiautomatic
firearms as a class of firearms at any point in my Supplemental Report. Indeed, the
word “semiautomatic” is never used in my Supplemental Report.

24 ³² Klarevas Supplemental Report, para. 15. Kleck criticizes my comparison
25 of assault weapons used by mass shooters with MSRs in civilian circulation. Kleck
26 Rebuttal Report, para. 56. Perhaps there are MSRs that might be exempt from
27 California’s statutory definition of assault weapons. However, if there are exempt
28 MSRs, Kleck does not identify any. As such, he provides no evidence to support a
change in my conclusions pertaining to the percentage of MSRs as a share of all
firearms in civilian circulation.

1 24. Kleck concedes that “Klarevas accurately notes the higher casualty
2 counts in mass shootings committed with AWs.”³³ Yet, Kleck surmises that it is
3 not the weaponry that is the “cause” of these higher death tolls, but rather some
4 other factor.³⁴ According to Kleck, the “association” between the use of assault
5 weapons in mass shootings and increased fatalities “*may be entirely due* to the
6 common effect of the *lethality of offender intentions* on both the number of people
7 the offender shoots and the choice of using a gun type or magazine perceived
8 (accurately or not) to be especially useful for hurting large numbers of people.”³⁵
9 As the phrase “may be entirely due” suggests, Kleck is engaging in speculation.
10 Perhaps Kleck’s analysis might be better served by answering the question hidden
11 in his hypothesis: Why do mass shooters believe that assault weapons are
12 “especially useful for hurting large numbers of people”?³⁶

13 25. Kleck is suggesting that lethal intentions (“the lethality of offender
14 intentions”), as opposed to the firearms used, are what really “cause” people to die
15 in mass shootings. If this sounds familiar, it is because it is another way of saying,
16 ‘guns don’t kill people, people kill people.’ But as any well-read student of
17 criminology and security studies knows, acts of violence involve intentions *and*
18 capabilities. And capabilities are central to our causal understanding of murder.
19 This is why the autopsy reports of firearm-homicide victims identify the cause of
20 death as “gunshot wound,” as opposed to “lethality of offender intention.”³⁷

21 26. After engaging in this exercise, Kleck shifts his approach and states
22 that “[t]here is in fact no sound scientific basis for the claim that there are features
23

24 ³³ Kleck Rebuttal Report, para. 59.

25 ³⁴ *Ibid.*

26 ³⁵ *Ibid.*; emphasis added.

27 ³⁶ *Ibid.*

28 ³⁷ See, for example, Vernard Irvine Adams, *Guidelines for Reports by Autopsy Pathologists* (2008).

1 [of] AWs that actually cause more deaths in mass shootings.”³⁸ In particular, Kleck
2 states, “there is no credible evidence that the kinds of firearms banned by California
3 as AWs are any more accurate, lethal, or rapid-firing than their unbanned semi-
4 automatic counterparts.”³⁹ In essence, Kleck singles out three tests for gauging the
5 lethality of assault weapons—and, not surprisingly, none of them are direct
6 measures of offender intentions.

7 27. Interestingly, Kleck does not offer any authority that assesses the
8 impact of an instrument of violence using precision, ballistics, or firing efficiency.
9 That I am aware, Kleck is neither a firearms expert nor a ballistics expert. But
10 assuming *arguendo* that these are helpful indices, Kleck’s testimony conflicts with
11 testimony of plaintiffs’ rebuttal expert, Mark Hanish. In discussing AR-15 rifles,
12 Hanish notes, “Most of these rifles were designed with a pistol grip due to the
13 overall architecture of the rifle. The pistol grip provides for proper ergonomics
14 allowing a person to hold, aim, and manipulate the rifle *efficiently and accurately*.
15 The rifles are more comfortable to shoot, facilitating greater accuracy and
16 control.”⁴⁰ Hanish claims that the features of certain assault weapons improve
17 accuracy in certain circumstances. And by being “more comfortable to shoot,” it is
18 even possible that some active shooters might be able to fire their weapons more
19 effectively in a rapid-fire manner. Hanish appears to address two of Kleck’s three
20 criteria: accuracy and rapid-firing capability. But what about the criterion that
21 Kleck addresses in greater length than the other two? What about bullet wound
22 damage?

23 28. In discussing the ballistics of assault weapons, specifically the AR-15
24 rifle, Kleck writes:

25 ³⁸ Kleck Rebuttal Report, para. 60. It appears that there is a typographical
26 error in Kleck’s sentence and that he meant to write “features of AWs.”

27 ³⁹ *Ibid.*

28 ⁴⁰ Expert Witness Rebuttal Report of Mark Hanish, *Rupp v. Bonta*, Case No.:
8:17-cv-00746-JLS-JDE (C.D. Cal.), February 3, 2023, para 12; emphasis added.

1 Klarevas provides no evidence that an average round fired from an
2 AW is more likely to inflict a fatal wound than a round fired from
3 other guns (nor am I aware of any such evidence). In fact, the most
4 common ammunition used in so-called “assault rifles” are .223 caliber
5 and .556 [sic.] millimeter rounds—both very narrow bullets that
6 create correspondingly narrow wound cavities in the victim.
7 Consequently, *such rounds are less likely to cause the victim’s death*
8 *than the ammunition used in civilian-style hunting rifles.*⁴¹

9 29. Again, Kleck is not a ballistics expert. And in my Supplemental
10 Report, I established that the use of assault weapons in mass shootings resulted in
11 higher average death tolls when compared to mass shootings that did not involve
12 assault weapons.⁴² Moreover, Kleck acknowledges that I “accurately” noted this
13 relationship.⁴³ However, it is true that I did not devote any attention to the wound
14 patterns and damage caused by assault rifle cartridges, especially ammunition
15 designed for use in AR-15s. I did not perform such an analysis because I am not
16 trained as a forensic pathologist. Nor am I a firearms engineer. And from the
17 nature of Kleck’s assertion that .223-caliber and 5.56mm rounds are relatively less
18 lethal, it appears that Kleck is mistaken. On the issue of how AR-15 rounds impact
19 the human body, it is perhaps best to defer to Eugene Stoner, the creator of the AR-
20 15, who, in Congressional testimony, explained the rationale for why he designed
21 his rifles to use lighter ammunition:

22 There is the advantage that a small or light bullet has over a heavy one when
23 it comes to wound ballistics. . . . What it amounts to is the fact that bullets
24 are stabilized to fly through the air, and not through water, or a body, which
25 is approximately the same density as the water. And they are stable as long
26 as they are in the air. When they hit something, they immediately go
27 unstable. . . . If you are talking about .30-caliber, this might remain stable
28 through a human body. . . . While a little bullet, being it has a low mass, it
senses an instability situation faster and reacts much faster. . . . This is what
makes *a little bullet pay off so much in wound ballistics.*⁴⁴

41 Kleck Rebuttal Report, para. 60; emphasis added. Kleck wrote “.556 millimeter rounds.” This, too, appears to be a typographical error. I believe he meant to write “5.56 millimeter rounds.”

42 Klarevas Supplemental Report, paras. 16-17.

43 Kleck Rebuttal Report, para. 59.

44 Quoted in James Fallows, “Why the AR-15 Is So Lethal,” *The Atlantic*,

1 30. The above testimony was delivered by Stoner before a House Armed
2 Services subcommittee reviewing the use of AR-platform rifles by infantry
3 soldiers.⁴⁵ In the years since, such rifles have also become recognized for their use
4 by mass shooters.

5 **VI. MASS SHOOTING VIOLENCE INCREASED SUBSTANTIALLY AFTER THE**
6 **FEDERAL ASSAULT WEAPONS BAN EXPIRED IN 2004**

7 31. *Kleck Rebuttal Opinion #6*: Prior research that I have published does
8 not provide any serious evidence that bans on large-capacity magazines reduce the
9 incidence of mass shootings.

10 32. In one sentence in my Supplemental Report, I noted in passing that,
11 “after the [Federal] Assault Weapons Ban expired in 2004, mass shooting violence
12 increased substantially.”⁴⁶ In support of this claim, I provided five sources.⁴⁷ One
13 of those sources was a peer-reviewed article that I co-authored in a high-impact
14 journal in the field of health and medicine. The article was cited for the limited
15 purpose that it listed high-fatality mass shooting incidents that took place during
16 and after the federal ban, with the number of such incidents occurring with far
17 greater frequency after the ban than during it. Even though I did not state this
18 explicitly in my Supplemental Report, the article I co-authored found that, during
19 the ten-year time-period of the federal ban, there were 12 high-fatality mass

20 November 7, 2017, available at
21 [https://www.theatlantic.com/politics/archive/2017/11/why-the-ar-15-is-so-](https://www.theatlantic.com/politics/archive/2017/11/why-the-ar-15-is-so-lethal/545162)
22 [lethal/545162](https://www.theatlantic.com/politics/archive/2017/11/why-the-ar-15-is-so-lethal/545162) (last accessed February 21, 2023); emphasis added.

23 ⁴⁵ Stoner’s explanation was provided in response to the following comment,
24 made by the Subcommittee Chairperson Rep. Richard Ichord (D-MO): “One Army
25 boy told me that he had shot a Vietcong near the eye with an M-14 [which uses a
26 substantially heavier bullet] and the bullet did not make too large a hole on exit, but
27 he shot a Vietcong under similar circumstances in the same place with an M-16
28 [which is an automatic version of the AR-15] and his whole head was reduced to
pulp. This would not appear to make sense. You have greater velocity but the
bullet is lighter.” Quoted in *ibid.*

⁴⁶ Klarevas Supplemental Report, para. 22.

⁴⁷ *Ibid.*, note 10.

1 shootings (amounting to an annual average of 1.2 high-fatality mass shootings per
2 year). In the first 13 calendar years following the expiration of the Federal Assault
3 Weapons Ban (2005-2017), there were 47 such incidents (amounting to an annual
4 average of 3.6 high-fatality mass shootings per year).⁴⁸ In other words, after the
5 ban expired, the average annual number of high-fatality mass shootings in the
6 United States tripled in comparison to the decade that the federal ban was in
7 effect.⁴⁹

8 33. Kleck does not dispute this claim. Instead, Kleck devotes three full
9 pages of his Rebuttal Report to attacking my published study on LCM bans.
10 Kleck's focus on this particular study is misplaced because California's statutes
11 regulating LCMs are not being challenged in the present case, and they are not a
12 subject of my Supplemental Report.⁵⁰ This section of Kleck's Rebuttal Report does
13 not appear to be relevant to the present case, and, in any event, Kleck does not
14

15 ⁴⁸ Louis Klarevas, et al., "The Effect of Large-Capacity Magazine Bans on
16 High-Fatality Mass Shootings," 109 *American Journal of Public Health* 1754
17 (2019), available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311> (last
18 accessed February 20, 2023).

19 ⁴⁹ Extending the time parameters out through the end of 2022, in order to
20 capture every full calendar year since the Federal Assault Weapons Ban expired in
21 2004, would document that there have been 72 high-fatality mass shootings in the
22 18 years since the ban expired, resulting in an annual average of 4.0 incidents per
23 year. This is yet another indicator that the frequency of high-fatality mass
24 shootings continues to rise. See, Klarevas Supplemental Report, Exhibit B.

25 ⁵⁰ Kleck Rebuttal Report, para. 64. It is worth noting that, in addition to my
26 co-authored study of LCM bans, I cited four additional sources in support of the
27 claim that the frequency of mass shootings increased substantially after the Federal
28 Assault Weapons Ban expired, including a peer-reviewed article co-authored by
two scholars—Lori Ann Post and Maryann Mason—that Kleck called "amateurs." Klarevas Supplemental Report, para. 22, note 10. At no point in his Rebuttal Report did Kleck raise any concerns about these four other sources. Furthermore, ridiculing scholars who lauded our research—and who have published peer-reviewed-journal research on the effect of the federal assault weapons ban—as "amateurs" is ad hominem criticism that does not address the substance of their findings.

1 dispute that the frequency of mass shootings increased after expiration of the
2 Federal Assault Weapons Ban.

3 **VII. MASS SHOOTINGS RESULTING IN DOUBLE-DIGIT FATALITIES ARE**
4 **POST-WORLD WAR II PHENOMENA IN AMERICAN HISTORY**

5 34. *Kleck Rebuttal Opinion #7*: There does not appear to be any reliable
6 evidence that double-digit mass shootings are limited to the post-World War II era.

7 35. In my Supplemental Report, I discussed my review of American
8 newspapers in an effort to identify mass shootings that resulted in 10 or more
9 victims being shot to death. As a result of my search of the Newspaper Archive,
10 going as far back as 1776, I was unable to identify any double-digit-fatality mass
11 shootings occurring in the United States prior to 1949. Mass shootings resulting in
12 10 or more victims being shot to death appear to be a modern, post-World War II
13 phenomena.⁵¹

14 36. In his Rebuttal Report, Kleck criticizes my use of a historical
15 newspaper repository to identify such extreme acts of gun violence. Specifically,
16 he writes, “The problem with this source is that the number of newspaper stories
17 about mass shooters would increase as newspaper coverage of the nation’s events
18 increased, even if the number of mass shootings remained constant.”⁵² This
19 comment fails to tell us why Kleck believes, let alone how Kleck confirmed, that
20 newspaper repositories covering a period of history that goes back to at least the
21 founding of the United States would omit reporting on mass shootings. Because
22 Kleck does not point to any known incident of mass murder that was not included
23 in my survey due to the absence of media coverage, his critique of my reliance on
24 newspaper repositories is unfounded speculation.

25
26
27 ⁵¹ Klarevas Supplemental Report, paras. 19-23.

28 ⁵² Kleck Rebuttal Report, para. 68.

1 37. Kleck also takes issue with my exclusion of incidents of “large-scale,
2 inter-group violence such as mob violence, rioting, combat or battle skirmishes, and
3 attacks initiated by authorities acting in their official capacity.”⁵³ Kleck opines:

4 This limitation conveniently eliminates mass killings of Native
5 Americans by members of the U.S. cavalry (combat violence),
6 employer-initiated violence by state militias against strikers (violence
7 initiated by authorities acting in their official capacity), and white
8 mob violence aimed at African Americans such as the 1863 draft riots
in New York City, among other mass killings. The exclusions thereby
create the false impression that there were no mass shootings prior to
WWII.⁵⁴

9 38. Kleck goes on to state that “[t]he historical reality is that there were
10 many mass shootings in the U.S. long before either AWs or LCMs were
11 available.”⁵⁵ If we include combat violence and mob violence, then Kleck is
12 correct that there were indeed “many” mass shootings that occurred in the United
13 States prior to World War II. For example, in the Battle of Antietam during the
14 American Civil War, it is estimated that 3,650 soldiers were killed in a single day,
15 many of the casualties the result of gunshot wounds.⁵⁶

16 39. However, a mass shooting, as conceptualized by scholars and analysts,
17 is a form of intentional criminal assault involving a firearm.⁵⁷ As a criminologist,
18 Kleck knows this. In fact, one of the authoritative books on the topic, *Mass Murder*
19 *in the United States: A History*, was written by Grant Duwe, who Kleck helped
20 supervise when Duwe was a graduate student.⁵⁸ Duwe, in his book (which is an
21 adaptation of his dissertation), explains why excluding collective violence is

22 ⁵³ *Ibid.*, para. 69.

23 ⁵⁴ *Ibid.*

24 ⁵⁵ *Ibid.*

25 ⁵⁶ National Park Service, “Antietam: Casualties,” *available at*
<https://www.nps.gov/anti/learn/historyculture/casualties.htm> (last accessed
26 February 20, 2023).

27 ⁵⁷ See, Louis Klarevas, *Rampage Nation: Securing America from Mass*
Shootings (2016).

28 ⁵⁸ Grant Duwe, *Mass Murder in the United States: A History* (2007), at 2.

1 appropriate: “The definition of mass murder used here also does not include riots,
2 lynchings, and other *instances of collective violence*. I excluded these cases
3 because it is often difficult to disentangle the victims from the offenders.”⁵⁹ The
4 exclusion of such acts of violence is standard practice among scholars of multiple-
5 victim criminal violence.

6 40. Kleck does not cite Duwe’s book, which excludes acts of large-scale,
7 inter-group violence. Nor does he cite the Rebuttal Report of Clayton Cramer,
8 which makes very similar exclusions.⁶⁰ Instead, Kleck relies on a book by Hugh
9 Graham and Ted Gurr, published in 1969, to support his assertion that shootings
10 resulting from combat or mob violence are considered mass shootings.⁶¹ The
11 Graham and Gurr book is largely focused on political violence (especially civil
12 strife and war). As such, it is not an authoritative source on the parameters of mass
13 shootings. In the few instances where the book did discuss mass shootings, it is
14 clear that Graham and Gurr treated mass murder (including mass shootings) as
15 distinct from large-scale, inter-group violence. Furthermore, Graham and Gurr are
16 of the view that killing sprees lack a foundation in American history. In particular,
17 after referencing “the chilling mass slaughtering sprees of Charles Whitman in
18 Austin, Texas, and Richard Speck in Chicago,” Graham and Gurr remark, “Whether
19 the current spate of public murder is an endemic symptom of a new social malaise
20 is a crucial question that history cannot yet answer, other than to observe that
21 *precedents in our past are minimal*.”⁶² As noted in my Supplemental Report, prior
22 to the shooting rampage of Charles Whitman in Austin in 1966, the only known
23 mass shooting resulting in 10 or more casualties occurred in Camden, New Jersey,

24 ⁵⁹ *Ibid.*, at 15; emphasis added.

25 ⁶⁰ Expert Witness Rebuttal Report of Clayton Cramer, *Rupp v. Bonta*, Case
26 No.: 8:17-cv-00746-JLS-JDE (C.D. Cal.), February 3, 2023, at 20-22.

27 ⁶¹ Hugh Davis Graham and Ted Robert Gurr, eds., *Violence in America:
Historical and Comparative Perspectives* (1969).

28 ⁶² *Ibid.*, at 623; emphasis added.

1 in 1949. Graham and Gurr do not identify any double-digit-fatality mass shootings
2 that occurred prior to the 1949 Camden shooting spree that are consistent with the
3 definitional parameters employed by Duwe or myself. For that matter, neither does
4 Kleck.

5 CONCLUSION

6 In my Supplemental Report, I offered the following five findings:

- 7 1. *In terms of individual acts of intentional criminal violence, mass shootings*
8 *presently pose the deadliest threat to the safety of American society in the*
9 *post-9/11 era, and the problem is growing nationwide.*⁶³ Kleck has provided
10 no credible evidence that contradicts this factual claim. In fact, with regard
11 to one of the three data sets I reviewed, Kleck acknowledges that the data
12 points confirm that mass shootings are on the rise.
- 13 2. *Mass shootings involving assault weapons, on average, have resulted in a*
14 *substantially larger loss of life than similar incidents that did not involve*
15 *assault weapons.*⁶⁴ Kleck has provided no credible evidence that contradicts
16 this factual claim. In fact, Kleck agrees that I have “accurately” noted this
17 relationship between the use of assault weapons in mass shootings and larger
18 average death tolls.
- 19 3. *Mass shootings resulting in double-digit fatalities are relatively modern*
20 *phenomena in American history, largely related to the use of large-capacity*
21 *magazines and assault weapons.*⁶⁵ Kleck has provided no credible evidence
22 that contradicts this factual claim.
- 23 4. *Assault weapons are used by private citizens with a far greater frequency to*
24 *perpetrate mass shootings than to stop mass shootings.*⁶⁶ Kleck has provided
25 no credible evidence that contradicts this factual claim.
- 26 5. *Jurisdictions that restrict the possession of assault weapons experience fewer*
27 *mass shooting incidents and fatalities, per capita, than jurisdictions that do*
28

⁶³ Klarevas Supplemental Report, para. 12.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

1 *not restrict assault weapons.*⁶⁷ Kleck has provided no credible evidence that
2 contradicts this factual claim.

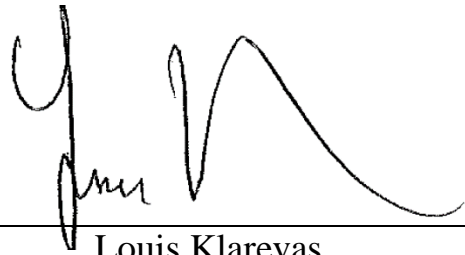
3 Based on these five findings, I opined that “restrictions on assault weapons have the
4 potential to save lives by reducing the frequency and lethality of mass shootings.”⁶⁸

5 I continue to stand by the findings and opinions in my Supplemental Report.

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

7 Executed on February 24, 2023, at Nassau County, New York.

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A handwritten signature in black ink, appearing to read 'Louis Klarevas', is written over a horizontal line.

Louis Klarevas

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

EXHIBIT 56

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9 *in his official capacity*¹

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14
15 **STEVEN RUPP; STEVEN**
DEMBER; CHERYL JOHNSON;
16 **MICHAEL JONES;**
CHRISTOPHER SEIFERT;
17 **ALFONSO VALENCIA; TROY**
WILLIS; and CALIFORNIA RIFLE
18 **& PISTOL ASSOCIATION,**
INCORPORATED,

19 Plaintiffs,
20

21 v.

22 **ROB BONTA, in his official capacity**
as Attorney General of the State of
23 **California; and DOES 1-10,**

24 Defendants.
25

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL EXPERT
REPORT AND DECLARATION
OF BRENNAN RIVAS**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

26 ¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the
27 Attorney General of the State of California. Pursuant to Federal Rule of Civil
28 Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as
the defendant in this case.

1 **SUPPLEMENTAL EXPERT REPORT AND DECLARATION OF**
2 **BRENNAN RIVAS**

3 I, Brennan Rivas, declare under penalty of perjury that the following is true
4 and correct:

5 1. I have been asked by the Office of the Attorney General of the
6 California Department of Justice to prepare an expert report regarding historical
7 regulations that prohibited the public carry and possession of certain weapons. This
8 supplemental expert report and declaration (“Report”) is based on my own personal
9 knowledge and experience, and, if I am called as a witness, I could and would
10 testify competently to the truth of the matters discussed in this Report.

11 2. I have evaluated the historical justifications and purposes of laws
12 restricting the carrying of certain weapons, in addition to their scope in restricting
13 the use of certain weapons associated with urgent societal problems of the time
14 while simultaneously protecting the right to use other weapons for constitutionally
15 protected, lawful purposes.

16 **PROFESSIONAL QUALIFICATIONS**

17 3. I have a Ph.D. in history from Texas Christian University, awarded in
18 2019. My expertise includes historical weapon regulations in the United States. I
19 have several publications on this topic, including peer-reviewed articles in the
20 *Southwestern Historical Quarterly*, and a chapter in an edited collection
21 forthcoming by Oxford University Press; earlier this year, my article, “Enforcement
22 of Public Carry Restrictions: Texas as a Case Study (June 2022), was published in
23 the *UC Davis Law Review*.

24 4. I am currently completing a book manuscript based upon my
25 dissertation research, which traces the development and implementation of weapon
26 and firearm policies in Texas across a century-long period.

27 5. A true and correct copy of my current curriculum vitae is attached as
28 **Exhibit A** to this Report.

6. I have provided expert witness testimony in *Miller v. Bonta*, No. 3:19-cv-01537-BEN-JLB (S.D. Cal.); *Duncan v. Bonta*, No. 3:17-cv-1017-BEN-JLB (S.D. Cal.); *Brumback v. Ferguson*, No. 1:22-cv-03093 (E.D. Wa.); *Sullivan v. Ferguson*, No. 3:22-cv-05403 (W.D. Wa.); *Angelo v. District of Columbia*, No. 1:22-cv-01878-RDM (D.D.C.); *Hanson v. District of Columbia*, No. 1:22-cv-02256 (D.D.C.); *Frey v. Bruen*, No. 7:21-cv-5334 (S.D.N.Y.); and *Christian v. Nigrelli*, No. 1:22-cv-695 (W.D.N.Y).

7. I have been retained by the State of California to provide expert opinion and testimony regarding historical regulations that prohibited the public carry and possession of certain weapons. I am being compensated at a rate of \$130 per hour.

OPINIONS

8. As discussed in this Report, the proliferation of nineteenth-century firearm restrictions, including those enacted in Texas, Tennessee, and Arkansas, demonstrate a robust governmental response to the scourge of gun violence that swept the Nation. Importantly, these restrictions did not flatly ban the carry or possession of all arms and instead targeted only those weapons that posed significant risk to public safety at that time.

I. BRIEF HISTORY OF THE COLT REVOLVER AND THE SPREAD OF HANDGUN VIOLENCE IN THE NINETEENTH CENTURY

9. The field of gun law history is a relatively young and obscure one, though it will undoubtedly continue to grow as Second Amendment jurisprudence generates a need for more and better scholarship on the subject. My research, which represents some of the most in-depth work on nineteenth-century gun regulations, shows that there are historical firearm regulations similar to California's assault weapons restriction. Notably, during this period, several states prohibited the sale, gift, transfer, or importation of certain types of revolvers and other pistols which people of the time associated with criminal activity.

1 10. The revolver design that came to dominate American markets during
2 the mid- and late nineteenth century was patented by Samuel Colt in 1836. He was
3 not the first inventor to produce a multi-shot pistol, but he was the first whose
4 creation became technologically and socially significant. Even though Colt had a
5 working revolver by the mid-1830s, it took decades for his invention to become
6 commercially successful.

7 11. The Colt revolver diverged from pistols then widely available in two
8 critical ways. First, it was breech-loading, meaning that ammunition did not need
9 to be inserted through the end of the barrel (muzzle-loading). Second, it provided
10 multiple shots without reloading; the standard design eventually settled at six
11 rounds. The earliest revolvers (those manufactured prior to and during the Civil
12 War) were of the “cap and ball” type, which required a delicate and time-
13 consuming reloading process. By about the 1870s, technological developments in
14 the design and functionality of ammunition meant that later models of Colts could
15 use individual cartridges; these could be inserted fairly quickly into the cylinder,
16 which made the reloading process much swifter—a boon on the battlefield, but a
17 new danger in other contexts.

18 12. Though Colt’s revolver was a revolutionary device that represented a
19 paradigmatic shift in firearm technology, his company struggled to reach its
20 potential. The expiration of Colt’s patent in 1857 opened the door for other
21 manufacturers to enter the market without having to endure the same decades-long
22 startup cost. Meanwhile, the growing crisis over slavery and its looming prospect
23 of war gave Colt what he had always wanted—substantial government patronage.
24 Southern states ordered as many revolvers as they could in the lead-up to Fort
25 Sumter, and Colt’s Patent Fire Arms Manufacturing Company was more than
26 willing to deliver. But the far more important contracts came from the United
27 States military, whose orders for pistols like Colt’s revolver skyrocketed during the
28

1 course of the Civil War.² Wartime production by Colt, in addition to the new
2 entrants into the market (like Smith & Wesson), created an unprecedented
3 infrastructure to manufacture staggeringly large quantities of pistols. As production
4 capacity increased and the U.S. military demobilized, more of these weapons
5 became available to and affordable for American consumers; by the 1870s, the net
6 result was more and cheaper pistols spread throughout the country³, introducing the
7 United States to its first experience with rampant gun violence.

8 13. The Civil War Era, making up the central three decades of the
9 nineteenth century (1840-1870), marked a sharp departure for the United States in
10 terms of violence and homicide in comparison to other Western nations. Distrust in
11 governing institutions and tremendous economic change wrought by
12 industrialization primed Americans for homicidal violence to a degree that was
13 unprecedented in American history. In northern cities, rising population levels
14 accompanied urbanization, labor agitation, and poverty, which caused an increase
15 in homicide and crime. Though military victory and a renewed faith in American
16 government reduced homicide in northern states after the 1860s, the rates for the
17 1870s and 1880s in the north remained higher than those from the more peaceful
18 era prior to the 1840s, and by the close of the 1890s northern homicide rates began
19

20 ² On the life of Samuel Colt and the history of his firearm manufacturing
21 companies, see Jim Rasenberger, *Revolver: Sam Colt and the Six-Shooter that*
22 *Changed America* (New York: Scribner, 2020).

23 ³ Colt's Army revolvers cost about \$20 at the time of the Civil War, but
24 subsequent entrants into the market sold small pocket pistols for as little as a couple
25 of dollars. For example, see digitized Sears and Roebuck catalog (1898), pp. 365-
26 367. Regardless of caliber, the pistols from Colt's ran about \$12 to \$13 in the
27 catalog but retailed elsewhere for something closer to \$18 (see pp. 367).
28 Meanwhile, the smaller caliber pocket pistols from other brands could be ordered
for as little as \$1.40 (see pp. 365). For the 1898 Sears & Roebuck catalog online,
see <https://bit.ly/3VeUhHo>.

1 ratcheting upward yet again.⁴ Broader crime rates for the late nineteenth century
2 are harder to pin down than those for homicide, but the development of urban,
3 industrial life produced abundant opportunities for the criminally inclined. That
4 city governments enacted new criminal ordinances and increased funding for police
5 strongly suggests that urban residents perceived themselves to be more vulnerable
6 to victimization than they had been in the past. In the southern states, the
7 revolutionary consequences of emancipation and Reconstruction created an
8 atmosphere of distrust of government and one's neighbor, mutual hatred, and
9 deeply ideological partisanship that resulted in tremendous, gut-wrenching violence
10 suffered primarily by Black Americans and their political allies. The disruption of
11 war, occupation, and frequent changes in state government and constitutional
12 structure bred attitudes of vigilantism and disregard for the judicial process. Rates
13 of violence and homicide remained quite high in the southern states across the
14 nineteenth century.⁵ The proliferation of deadly weapons, and especially easily
15 concealable pistols, to a point of near ubiquity in American communities rendered
16 the interpersonal conflicts that erupted as a result of urbanization, Reconstruction,
17 economic hardship, and social dislocation all the more deadly.

18 **II. GOVERNMENTAL RESPONSES TO THE RISE IN HANDGUN VIOLENCE**

19 14. The response to this rise in gun violence varied across the United
20 States. The most popular approach was the enactment or strengthening of public
21 carry laws. Jurisdictions that did not already have such laws were likely to enact

22 ⁴ On homicide in American history, particularly as broken down into
23 northern and southern regions, see Randolph Roth, *American Homicide*
24 (Cambridge: Belknap Press of Harvard University Press, 2009), 297-326, 386-388
25 (for trends in northern areas); 185 (for data-supported charts showing trends in
26 homicide for large cities across the entire nineteenth century); 184 (complicating
27 data from p.185 by showing that some rural northern areas experienced sharp rise in
28 crime after 1865 and therefore emulated what took place in the American South
during that time)

⁵ Roth, *American Homicide*, 411-434.

1 them, and those using the older mechanism of sureties to keep the peace were likely
2 to transition toward the implementation of criminal statutes mandating fines and/or
3 jail time for violators.⁶ These public carry regulations targeted concealable items
4 like pistols, sword canes, and daggers that were used in the commission of crimes
5 and generally referred to as deadly weapons. The closing third of the nineteenth
6 century saw a flurry of this activity as states and municipalities tried new penalties,
7 added new weapons to the lists of prohibited weapons, and generally attempted to
8 eliminate small, easily concealable weapons from the public sphere.⁷

9 15. Another strategy employed by state governments to reduce gun
10 violence and gun crime was to tax certain types of firearms. In 1894, Georgia
11 enacted a new occupation tax law that applied to “dealers in pistols and other
12 weapons.” A dealer in “pistols, toy pistols shooting cartridges, pistol or rifle
13 cartridges, dirks, bowie-knives, or metal knucks” had to pay twenty-five dollars per
14 place of business.⁸ In 1907, the Texas legislature placed a fifty-percent sales tax
15 upon pistols; dealers had to report their sales and pay the required tax to the state
16 comptroller’s office on a quarterly basis.⁹ Sales and occupation taxes like these

17 ⁶ The Repository of Historical Gun Laws, a database maintained by the Duke
18 Center for Firearms Law, reflects that American state and local governments
19 enacted statutes and ordinances specifically relating to “carrying weapons” in large
20 numbers during the period from the close of the Civil War in 1865 through the end
21 of the nineteenth century. See <https://firearmslaw.duke.edu/repository/search-the-repository/>.

22 ⁷ In the second half of the nineteenth century, items like metal knuckles and
23 razor blades became targets for proscription alongside bowie knives, pistols, and
24 sword canes.

25 ⁸ Acts of the General Assembly of the State of Georgia (1894) available
26 online from the Digital Library of Georgia; see
27 https://dlg.usg.edu/record/dlg_zlgl_75343012/fulltext.text and
28 https://dlg.usg.edu/collection/dlg_zlgl?range%5Byear_facet%5D%5Bbegin%5D=1880&range%5Byear_facet%5D%5Bend%5D=1899&sort=year+desc. Also, there
were likely many more occupation taxes, though they have not been
comprehensively indexed as of yet.

⁹ An Act providing for the levy and collection of an occupation tax . . . ,

1 tended to be less about generating revenue than regulating an activity that was
2 frowned upon by society more generally. Occupation tax laws applied to vendors
3 who appealed to vices like smoking, gambling, and playing games as well as
4 peddlers and itinerant salesmen. When a Texas appellate court upheld the stringent
5 sales tax (over loud complaints by dealers), the judge described the business of
6 selling pistols as one “hurtful to the welfare of society” and among that class of
7 occupations “detrimental to the health, morals, or good order of society.” As a
8 result, the court reasoned that the legislature “would have the right, not only to levy
9 an excessive tax, which would be prohibitory thereof, but could go further and
10 absolutely prohibit any one from engaging therein.”¹⁰

11 16. Arkansas and Tennessee, for example, adopted a two-pronged
12 approach that displayed attributes of both public carry laws as well as dealer
13 regulations. The first prong was to prohibit the public carrying of pistols.¹¹ Courts
14 in both states struck down early versions of the laws because they applied to all
15 revolvers, including those being issued to certain classes of soldiers by the United
16 States military.¹² But they were quickly amended to exclude “army and navy
17 pistols”—those types or models in use by the U.S. military—when carried openly
18 in the hand. By exempting these models, Arkansas and Tennessee lawmakers made
19 their gun policies comport with the reigning Second Amendment jurisprudence of
20

21
22 General Laws of Texas, §XVIII (1907). See also Brennan Gardner Rivas, “The
23 Deadly Weapon Laws of Texas: Regulating Guns, Knives, and Knuckles in the
Lone Star State, 1836-1930, (PhD diss., Texas Christian University, 2019) 161-162.

24 ¹⁰ *Caswell & Smith v. State*, 148 SW 1159 (Tex. App. 1912).

25 ¹¹ See 1869-1870 Tenn. Pub. Acts, 2d. Sess., An Act to Preserve the Peace
26 and Prevent Homicide, ch. 13, § 1; 1874-1875 Acts of Ark., An Act to Prohibit the
Carrying of Side-Arms, and Other Deadly Weapons, at p. 155, § 1.

27 ¹² *Andrews v. State*, 50 Tenn. 165 (1871); *Wilson v. State*, 33 Ark. 557
28 (1878).

1 their day, which held that militia arms enjoyed special protection from certain
2 forms of regulation.

3 17. Unlike today, where laws generally prevent the civilian sale of
4 military-grade weapons while carving out protections for self-defense weapons,
5 Americans of the nineteenth century did just the opposite; case law at that time held
6 that a citizen's militia obligation conferred upon certain kinds of firearms,
7 especially muskets and rifles, a protected status under the law as "militia arms,"
8 while those smaller weapons which lent themselves to concealability and were
9 more conducive to interpersonal violence could be prohibited. This view of arms
10 and their place in society changed in the twentieth century as a result of substantial
11 alterations to the militia system (and the development of the National Guard) as
12 well as the advent of automatic and select-fire weapons for military use.

13 18. When the Tennessee high court struck down the initial statute, which
14 prohibited the carrying of *all* pistols, lawmakers swiftly wrote a replacement statute
15 that, "it shall not be lawful for any person to publicly carry a dirk, sword cane,
16 Spanish stiletto, belt or pocket pistol, or revolver, other than an army pistol, or such
17 as are commonly carried and used in the United States army, and in no case shall it
18 be lawful for any person to carry such army pistol publicly or privately about his
19 person in any other manner than openly in his hands."¹³ It is worth noting that even
20 the exempted army/navy pistols could not be carried concealed, or even visible
21 within a waistband or hip holster; the only way to carry legally exempted pistols
22 was to hold them in one's hand. The purpose of this additional phrase was to
23 curtail as much as possible the carrying of these weapons in public spaces so that a
24 person would only do so in the event of a real emergency. Arkansas's replacement
25

26 ¹³ 1871 Tenn. Pub. Acts 81, An Act to Preserve the Peace and to Prevent
27 Homicide, ch. 90, § 1; *State v. Wilburn*, 66 Tenn. 57, 61 (1872).
28

1 statute was similar to that of Tennessee.¹⁴ The Tennessee Supreme Court upheld
2 that state's replacement statute against constitutional challenge.¹⁵ The revised
3 Arkansas statute received no notable challenge.

4 19. The second prong which these states employed was a prohibition on
5 the sale of certain pistols. Tennessee prohibited "any person to sell, or offer to sell,
6 or bring into the State for the purpose of selling, giving away, or otherwise
7 disposing of, belt or pocket pistols, or revolvers, or any other kind of pistol, except
8 army or navy pistols."¹⁶ Arkansas followed suit but went even further by
9 prohibiting the sale of pistol cartridges as well. "Any person who shall sell, barter,
10 or exchange, or otherwise dispose of, or in any manner furnish to any person any
11 dirk or bowie knife, or a sword or a spear in a cane, brass or metal knucks, or any
12 pistol, of any kind of whatever, except as are used in the army or navy of the United
13 States, and known as the navy pistol, or any kind of cartridge for any pistol, or any
14 person who shall keep such arms or cartridges for sale, shall be guilty of a
15 misdemeanor."¹⁷

18 ¹⁴ 1881 Ark. Acts 191, An Act to Preserve the Public Peace and Prevent
19 Crime, chap. XCVI, § 1-2 ("That any person who shall wear or carry, in any
20 manner whatever, as a weapon, any dirk or bowie knife, or a sword, or a spear in a
21 cane, brass or metal knucks, razor, or any pistol of any kind whatever, except such
22 pistols as are used in the army or navy of the United States, shall be guilty of a
23 misdemeanor. . . . Any person, excepting such officers or persons on a journey, and
24 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.").

25 ¹⁵ *State v. Wilburn*, 66 Tenn. 57, 61 (1872).

26 ¹⁶ 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).

27 ¹⁷ Acts of the General Assembly of Arkansas, No. 96 § 3 (1881).

20. Throughout the nineteenth century, Americans voiced their displeasure with the practice of carrying weapons in public spaces.¹⁸ Condemnations of such behavior and calls for regulations rang out across the country and became increasingly common during the late nineteenth century when economic and technological developments had made them easier to produce and cheaper to purchase. Arkansas and Tennessee were no exception to this national rule, and commentators there engaged in the same discourse of their counterparts elsewhere. The “shocks and violent convulsions which have been so fatal to law and order in the South” were well known, as was the fact that “the pistol, the knife, the shotgun and the bludgeon too often do their bloody work.”¹⁹ After the 1875 statute went into effect in Arkansas, news editors began praising it as “about the best law that has ever been enacted in this state,” and one that, had it been in effect since statehood in 1836, “would have saved the lives of thousands of good men who have fallen victim to the vice of carrying deadly weapons, or from the results and natural consequences thereof.”²⁰ Some judges in Tennessee began handing down penalties of a fifty-dollar fine plus sixty days in jail, and “as a result few persons carry deadly weapons in [that] county.”²¹ Reports of this rigid enforcement in Tennessee elicited

¹⁸ For example, see Patrick Charles, *Armed in America* 152 (2018) (noting the Georgia Supreme Court’s view that it was “at a loss to follow the line of thought that extends the guarantee to the right to carry pistols, dirks, Bowie-knives, and those other weapons of like character, which, as all admit, are the greatest nuisances of our day.” (quoting *Hill v. State*, 53 Ga. 472, 474 (1874))).

¹⁹ “Crime in the South” *Arkansas Democrat* (Little Rock, Arkansas), June 7, 1879, 2.

²⁰ *Newport News* (Newport, Arkansas), quoted in *Daily Arkansas Gazette* (Little Rock, Arkansas), April 27, 1875, 2.

²¹ The practice began with Judge Horrigan of Shelby County, the seat of which is Memphis, Tennessee. Judge Quarles of Nashville declared his intention to follow suit. *Daily Arkansas Gazette* (Little Rock, Arkansas), January 7, 1883, 4. Judge Allen of Davidson County, Tennessee pledged to “impartially enforce the

1 praise among Arkansans, who viewed it as a social benefit that in Tennessee “men
2 who for years converted themselves into walking arsenals discover that they can
3 pursue their ordinary vocations without fear that they may at any moment be called
4 upon to defend their persons against assault.”²² From their perspective, the distrust
5 of one’s fellow community members that went along with habitual gun-toting was a
6 burden of fear that could only be lifted by prohibiting deadly weapons in the public
7 sphere. Middle-class Americans, white southerners included, held the view that
8 carrying deadly weapons was not honorable, and that such behavior should be
9 stopped.²³

10 21. To fully understand these regulations, it is necessary to understand the
11 different kinds of pistols and revolvers available during this time period. First, at
12 the larger end of the spectrum was the “army pistol” or “holster pistol,” which was
13 originally fashioned after the “horse pistols” that had been adopted by mounted
14 units in Europe and the United States. Such pistols were typically designed to be
15 carried in a saddle mounted holster and could weigh four pounds or more when
16 loaded. Though the firearm became slightly smaller and more conducive to being
17 worn on the person by officers beginning in the 1870s, they remained the largest
18 gun in Colt’s pistol lineup and carried a higher caliber; they were issued in large

19 _____
20 law” regarding weapons and “declared that ‘it would make no difference of how
21 high degree a man was, if he was convicted before him of carrying a pistol he
22 would have to go to jail as well as pay a fine, and it simply came down to this: if he
23 was bound to carry a pistol he was bound to go to jail. That only ruffians carried
24 pistols and it gave them an unfair advantage over other citizens.’” *Daily Arkansas
25 Gazette* (Little Rock, Arkansas), May 13, 1883, 4.

26 ²² *Daily Arkansas Gazette* (Little Rock, Arkansas), January 7, 1883, 4.

27 ²³ For an example from Arkansas and Tennessee, see *Daily Arkansas Gazette*
28 (Little Rock, Arkansas), May 13, 1883, 4 (reporting that a Tennessee district judge
stated “that only ruffians carried pistols and it gave them an unfair advantage over
other citizens,”). See also Mark Anthony Frassetto, “The Myth of Open Carry,”
UC Davis Law Review 55 (June 2022), 2518-2519.

1 numbers by the United States Army and Navy during the Civil War and postbellum
2 eras.²⁴ The Arkansas and Tennessee restrictions carved out an exception for these
3 weapons, but only when carried openly in the hand.

4 22. Second, “belt pistols” were midsized models and would have been
5 worn in a hip holster attached to the belt. These midsized pistols became popular
6 among civilians and may have been the most common type of revolver in the
7 country around the time of the Civil War. The Colt navy pistol took on that
8 moniker during the antebellum years when that model featured an engraving of a
9 naval battle. In the postbellum decades, “army” or “holster” models became
10 smaller and the differences between them and Colt’s “navy” pistols lessened²⁵;
11 during the period in which these statutes were written—about fifteen years after the
12 Civil War—the “army/navy” description most likely reflected this technological
13 evolution by referring to the larger, heavier, higher caliber pistols with longer
14 barrels that were then issued by the United States military. The sales bans under
15 discussion here generally included “belt” pistols, so it remains unclear whether and
16 to what extent the Colt’s Navy pistol (which was technically a “belt” model) would
17 have received exemption on the basis of its name and/or its use by the military
18 forces.

19 23. Finally, the third kind of pistol available was the “pocket pistol.”
20 These were substantially smaller than the holster and belt models. Pocket pistols
21 ranged from single-shot, muzzle-loading derringers with barrels under two inches to
22 revolvers like Colt’s “pocket navy” six-shooter with a three-inch barrel. After the

23
24 ²⁴ On size, variability, and manufacture of Colt pistols, see Jim
25 Rasenberger, *Revolver: Sam Colt and the Six-Shooter that Changed America* (New
26 York: Simon and Schuster, 2021); Martin Rywell, *Colt Guns* (Harriman, TN:
Pioneer Press, 1953); R. L. Wilson, *The Colt Heritage: The Official History of Colt
Firearms from 1836 to the Present* (New York: Simon & Schuster, 1979).

27 ²⁵ See note 24, above.
28

1 Civil War, military purchases slowed, which led gun manufacturers to pivot toward
2 civilian sales. They marketed pocket pistols heavily. For instance, Colt's produced
3 both a "ladies' model" as well as a "house" pistol—though the latter became more
4 widely known as a "Fisk" for its use in the infamous murder of the robber baron
5 Jim Fisk in 1872.²⁶ The explosion in production was all the more pronounced by
6 the entry of imitation brands that used lower quality metals with less sophisticated
7 workmanship to sell pocket pistols at much lower prices than the competition.²⁷
8 These cheap revolvers could be had for a few dollars, with used ones selling for
9 even less.²⁸

10 24. It is in this context that the public carry regulations and associated
11 sales bans and prohibitory taxes mentioned above must be understood. A
12 confluence of technical advancements and social changes resulted in the
13 widespread adoption of new weapons, causing new societal problems that increased
14 levels of interpersonal violence and ratcheted up public fear. In response, state
15 legislatures enacted regulations targeting the source of that problem. In addition to
16 other dangerous weapons, Tennessee and Arkansas targeted "pocket pistols"—

17 ²⁶ For example, see *The Pistol as a Weapon of Defence in the House and on*
18 *the Road: How to Choose It and How to Use It* 23 (1875) (referring to pocket
19 pistols, including "the house pistol brought out some years ago by the Colt Arms
20 Company, and rendered famous by the fact that it was the pistol used by [Edward]
Stokes in the murder of Fisk").

21 ²⁷ See note 24, above.

22 ²⁸ Colt's Army revolvers cost about \$20 at the time of the Civil War, but
23 subsequent entrants into the market sold small pocket pistols for as little as a couple
24 of dollars. For example, see digitized Sears and Roebuck catalog (1898), pp. 365-
25 367. Regardless of caliber, the pistols from Colt's ran about \$12 to \$13 in the
26 catalog but retailed elsewhere for something closer to \$18 (see pp. 367).
27 Meanwhile, the smaller caliber pocket pistols from other brands could be ordered
28 for as little as \$1.40 (see pp. 365). For the 1898 Sears & Roebuck catalog online,
see
<https://archive.org/details/consumersguideno00sear/page/365/mode/1up?q=pistol>.

1 designed to be concealed from public view and increasingly easy to obtain by those
2 wishing to cause harm, were a target of these laws. The legislatures of both
3 Tennessee and Arkansas prohibited both the public carrying of these weapons, as
4 well as their sale to the general public. These regulations remained in force well
5 into the twentieth century.

6 25. Previous scholarship addressing these statutes has cast them as racially
7 motivated.²⁹ Those articles did not investigate deeply the primary sources of the
8 time. My research shows that these accounts have misrepresented the Tennessee
9 and Arkansas statutes, which were enacted as a public safety measure rather than an
10 attempt to disarm Black residents. The argument made by other scholars, again
11 based on little more than inference, has been that most white men served in the
12 Civil War or had the means to purchase an “army/navy” pistol, and that the
13 army/navy exception was tantamount to a whites-only exception to this policy.³⁰
14 Civil War soldiers on both sides of the conflict were unlikely to be issued a
15 revolver unless they were officers, cavalry, or artillery; a great number of enlisted
16 soldiers who possessed revolvers during the conflict had purchased them on their
17 own, and at times their carrying of the weapons caused sufficient trouble within the
18 ranks that officers confiscated them. Others discarded heavy and seemingly
19 unnecessary pistols on long, grueling marches.³¹ Confederate service did not
20 automatically correlate to white possession of an exempted pistol.

21
22 ²⁹ For example, Stefan B. Tahmassebi, “Gun Control and Racism,” *George*
23 *Mason University Civil Rights Law Journal* 2, no. 1 (Summer 1991), 74-75; Robert
24 Leider, “Our Non-originalist Right to Bear Arms,” *Indiana Law Journal* 89, no. 4,
1619-1620.

25 ³⁰ Tahmassebi, “Gun Control and Racism,” 74-75.

26 ³¹ On pistols and other arms issued during the Civil War, see Katelyn Brown,
27 “Armed to the Teeth,” *Military Images* 33, no. 4 (Autumn 2015), 32-36; Joseph G.
28 Bilby, *Civil War Firearms: Their Historical Background and Tactical*
Use (Conshohocken, PA: Combined Books, 1996); Graham Smith, *Civil War*

26. Rather than impute racism to these laws simply because of their occurrence during Reconstruction, we should embed them within their appropriate political and cultural context. The fact that Tennessee’s legislature amended the public carry law so swiftly to add the army/navy exception could indicate to the casual observer that white residents were dissatisfied with the original statute; however, when the statutes and their constitutional challenges are placed in chronological order and interpreted in light of the other primary sources of the era (particularly newspapers and the widespread social contempt for publicly carrying deadly weapons), it is clear that racism was not behind the army/navy exemption. Instead, it represented the best effort of Tennessee lawmakers to emulate the kind of comprehensive public carry prohibition that was in force in Texas³² while also respecting the parameters set forth by the state supreme court in *Andrews v. State*. The amendatory statute did not simply provide an exemption for army/navy pistols—it specified that even those pistols could not be carried in public unless

Weapons (New York: Chartwell, 2011); Jack Coggins, *Arms and Equipment of the Civil War* (New York: Fairfax Press, 1982); *Arms and Equipment of the Union* (Alexandria, VA: Time-Life Books, 1999); Ken Bauman, *Arming the Suckers: A Compilation of Illinois Civil War Weapons* (Dayton, OH: Morningside House, 1989).

³² Texas featured a comprehensive deadly weapon law that prohibited the open or concealed carrying of “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.” There were a few exceptions, such as for travelers, peace officers, and anyone who “has reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing.” *General Laws of Texas*, ch. XXXIV, §1 (1871). The original statutes in Arkansas and Tennessee indicate legislative intent to enact a comprehensive law like this one, but the decisions from their state courts in *Wilson* and *Andrews*, respectively, prevented them from doing so; in Texas, on the other hand, cases *English* and *Duke* upheld the constitutionality of the deadly weapon law without requiring an army/navy exception. See *English v. State of Texas*, 35 Tex. 473 (1872); *State of Texas v. Duke* 42 Tex. 455 (1874).

1 openly in the hand. Just like today, it was not common at that time to see a person
2 walking along a public street carrying a gun in hand; such behavior would have
3 been understood as an emergency requiring the intervention of local officers of the
4 law.

5 **CONCLUSION**

6 27. Based on the experiences in Tennessee and Arkansas, among other
7 examples,³³ there is historical precedent for California's assault weapons ban.
8 These states targeted pocket pistols and other types of weapons that, due to their
9 concealability, were associated with forms of criminal activity that were threatening
10 the public at that time. Like pocket pistols in the latter half of the nineteenth
11 century, semiautomatic firearms, including assault weapons, in the later parts of the
12 twentieth and earlier parts of the twenty-first became widely available for the first
13 time. And they are, like pocket pistols in the mid- to late 1800s, associated with
14 new social problems and criminal use, including the rise of high-casualty mass
15 shooting incidents. California's regulation, being a prohibition on the sale, transfer,
16 and manufacture of such firearms, is quite similar to the sale restrictions in
17 Tennessee and Arkansas. And like the Tennessee and Arkansas laws that exempted
18 army and navy pistols that were needed for lawful purposes, California's regulation
19 does not ban all rifles, pistols, shotguns, or other weapons that may otherwise fall
20 within its scope and may be used for self-defense.

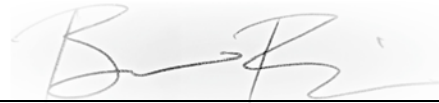
21 28. As stated above, and as with any historical research project, my work
22 in this area is still ongoing. There is significant research and analysis to be done on
23 the drafting and enforcement of these statutes, as well as the attitudes of residents
24 toward them as time wore on. Very little research that is based upon primary
25 sources, other than the review of case law and historical statutes, has yet been
26 conducted. Still, this brief account of pistol regulations from late-nineteenth

27
28 ³³ For example, see note 31, above.

1 century Tennessee and Arkansas demonstrates an important theme in the history of
2 firearms and weapons regulations in the United States: that states enacted
3 restrictions upon certain types of weapons, like pocket pistols, that were uniquely
4 adaptable to and associated with certain types of crime that threatened public safety
5 at the time, while also ensuring that the right of individuals to arm themselves for
6 self-defense in an emergency or upon their private property was not destroyed.

7
8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed on January 6, 2023 at Philadelphia, Pennsylvania.
10

11 
12

13 Brennan Rivas
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EXHIBIT A

Brennan Gardner Rivas

Curriculum Vitae · Oct 2022

Employment

Lloyd Lewis Fellow in American History, The Newberry Library, 2021-2022
Bill & Rita Clements Fellow for the Study of Southwestern America, Southern Methodist University, Clements Center for Southwest Studies, 2020-2021
Lecturer in American History (full-time), Texas Christian University, Department of History, 2019-2020

Education

Ph.D., History, Texas Christian University, 2019
Thesis: “[The Deadly Weapon Laws of Texas](#): Regulating Guns, Knives, & Knuckles in the Lone Star State, 1836-1930”
Advisor: [Gregg Cantrell](#)
M.A., History, Texas Christian University, 2013
Thesis: “Texas Antitrust Law: Formulation and Enforcement, 1889-1903”
B.A. with Honors, History, Oklahoma State University, 2010

Publications

Refereed Journal Articles

“[An Unequal Right to Bear Arms](#): State Weapons Laws and White Supremacy in Texas, 1836-1900,” *Southwestern Historical Quarterly* 121 (Jan 2018): 284-303.

Law Articles

“Strange Bedfellows: Racism and Gun Rights in American History and Current Scholarship” in Joseph Blocher and Jake Charles, eds., *New Histories of Gun Rights and Regulation: Essays on the Place of Guns in American Law and Society* (New York: Oxford University Press, forthcoming)

“[Enforcement of Public Carry Restrictions: Texas as a Case Study](#),” *U.C. Davis Law Review* (May 2022)

“[The Problem with Assumptions: Reassessing the Historical Gun Policies of Arkansas and Tennessee](#),” *Second Thoughts*, Duke Center for Firearms Law (Jan 2022)

Short Pieces

“Charles F. Cooley,” in [Wanted in America: Posters Collected by the Fort Worth Police Department, 1898-1903](#), edited by LeAnna Schooley and Tom Kellam. Fort Worth: TCU Press, 2019.

Review of David R. Berman, *George Hunt: Arizona’s Crusading Seven-Term Governor*, in [Southwestern Historical Quarterly](#) 114, no. 3 (January 2016): 327-329.

Public History

“[In the Past, Americans Confronted Gun Violence by Taking Action](#),” *Washington Post: Made by History Blog* (Jun 2022)

- ~ Op-ed showcasing open-mindedness of 19th century Americans about experimenting with new gun control measures
- “[The Origin of Public Carry Laws in Texas](#),” *Texas Gun Sense Blog* (Feb 2021)
- “[Texas Gun Laws](#),” Online Primary Source Collection, hosted by [Omeka](#)
 - ~ Online collection featuring primary sources from my research; feature exhibit titled “Crafting a Public Carry Law”
- “[The Deadly Weapon Laws of Texas](#),” Preserving Our Past: Community History Workshop, Center for Texas Studies at TCU (Nov 2020)
 - ~ Public lecture featuring special insights for genealogical researchers
- “The Deadly Weapon Laws of Texas,” Graduate/Undergraduate Public History Seminar, Tarleton State University (Sept 2020)
 - ~ Research presentation focusing on interpretation of county court records
- “[When Texas Was the National Leader in Gun Control](#): How the Land of Gunslinger Mythology Regulated Weapons to Reduce Violence,” *Washington Post: Made by History Blog* (Sept 2019)
 - ~ Op-ed highlighting long history of weapon regulation in Texas

Fellowships and Awards

Lloyd Lewis Fellowship in American History, 2021-2022

- ~ Awarded by the Newberry Library to scholars using its collection to research topics in American history

Bill & Rita Clements Fellowship for the Study of Southwestern America, 2020-2021

- ~ Awarded by the SMU Clements Center for Southwest Studies to two scholars of Texas, the Southwest, or the U.S.-Mexico borderlands who are developing first books

The Benjamin W. Schmidt Memorial Scholarship, 2018-2019

- ~ Awarded by the TCU Department of History to a PhD candidate who shows exceptional professional promise; highest departmental prize for graduate students

Texas Christian University Department of History, Shinko and Thomas McDonald Research Prize in Texas History, 2019, 2017

- ~ Awarded by the TCU Department of History to a graduate student with the best research on antebellum Texas history

Works in Progress

The Revolver Must Go: The Rise and Fall of a Gun Control Movement in Texas

Aim: Scholarly monograph exploring the rise of a gun control movement in nineteenth-century Texas and the regulatory strategies which it embraced. Widespread acceptance of strict, ambitious gun control laws in the “Wild West” belies current assumptions about Texas and challenges the reigning interpretation of the Second Amendment as a guarantor of expansive gun rights

Status: Editing manuscript

“The Texas Anti-Trust Movement: Antimonopoly, Populism, and Reform in the Long Progressive Era”

Aim: Scholarly article interpreting Texas antitrust policy an example of innovative reform in the Great Plains and trans-Mississippi West

Status: Research and writing in progress

University Teaching Experience

Instructor of Record

Lecturer in American History, Texas Christian University 2019-2020
“American History to 1877: Social Movements & the Politics of Slavery” (HIST 10603)
“American History since 1877: The Quest for Equality” (HIST 10613)
“History of Texas: A Transnational Look at the American Southwest” (HIST 40743)

Graduate Student Instructor

Teaching Assistant, Texas Christian University 2017-2018
American History to 1877 (HIST 10603)
American History since 1877 (HIST 10613)

Teaching Interests

American History, Legal History, Southwestern Borderlands, Civil War Era, American West, Gilded Age & Progressive Era, Women’s History

Conference Presentations & Invited Talks

“Reassessing Assumptions about Historical Arkansas and Tennessee Handgun Regulations,”
Race and Guns Roundtable, Duke Center for Firearms Law, Durham, North Carolina,
November 2021
“Enforcement of Public Carry Restrictions: Texas as a Case Study,” The Second Amendment at
the Supreme Court: 700 Years of History and the Modern Effects of Guns in Public, Davis,
California, October 2021
“Race & Guns,” Newberry Library Colloquium, Chicago, Illinois, October 2021
“Unlawful Carrying: Enforcing the Pistol Law in Texas, 1870-1920,” Texas State Historical
Association Annual Meeting, Corpus Christi, Texas, February 2019
“Regulating Deadly Weapons in Nineteenth-Century Texas,” Invited Lecturer, Los Bexareños
Hispanic Genealogical and Historical Conference, San Antonio, Texas, September 2018
“Impregnable Citadels of Capital: American Monopolies in the British Radical Press,” Southern
Conference on British Studies Annual Meeting, St. Pete Beach, Florida, November 2016
“Dating Violence in Texas: Why the State Family Code Obstructs Accurate Reporting about
Sexual Assault,” TCU Women & Gender Studies Research Symposium, 2015

Service

Invited Guest, “How to Make the Most of Your Time in Graduate School,” Dept. of History
Orientation Day, 2020
~ Advise incoming graduate students on strategies for success in the PhD program,
emphasizing importance of intellectual development
Panelist, “Everything You Wanted to Know about TCU but Were Too Afraid to Ask,” Dept. of
History Orientation Day, 2016
~ Provide honest and confidential information to prospective graduate students
Graduate Student Mentor, 2015
~ Informal departmental program designed to ease the transition for incoming graduate
students

Professional Memberships

Society for Historians of the Gilded Age and Progressive Era
Texas State Historical Association
Southern Historical Association
American Historical Association

Languages

Spanish (Proficient)
Latin (Proficient)

EXHIBIT 57

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Supervising Deputy Attorney General
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Attorneys for Defendant Rob Bonta,
9 *in his official capacity*¹

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14
15 **STEVEN RUPP; STEVEN**
DEMBER; CHERYL JOHNSON;
16 **MICHAEL JONES;**
CHRISTOPHER SEIFERT;
17 **ALFONSO VALENCIA; TROY**
WILLIS; and CALIFORNIA RIFLE
18 **& PISTOL ASSOCIATION,**
INCORPORATED,

19 Plaintiffs,
20

21 v.

22 **ROB BONTA, in his official capacity**
as Attorney General of the State of
23 **California; and DOES 1-10,**

24 Defendants.
25

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL EXPERT
REPORT AND DECLARATION
OF RANDOLPH ROTH**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

26 ¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the
27 Attorney General of the State of California. Pursuant to Federal Rule of Civil
28 Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as
the defendant in this case.

1 **SUPPLEMENTAL EXPERT REPORT AND DECLARATION OF**
2 **RANDOLPH ROTH**

3 I, Randolph Roth, declare under penalty of perjury that the following is true
4 and correct:

5 1. I have been asked by the Office of the Attorney General of the
6 California Department of Justice to prepare an expert report providing opinions on
7 the history of homicides and mass murders in the United States. This supplemental
8 expert report and declaration (“Report”) is based on my own personal knowledge
9 and experience, and, if I am called as a witness, I could and would testify
10 competently to the truth of the matters discussed in this Report.

11 **BACKGROUND AND QUALIFICATIONS**

12 2. I am an Arts and Sciences Distinguished Professor of History and
13 Sociology at The Ohio State University. I received a B.A. in History with Honors
14 and Distinction in 1973 from Stanford University, where I received the James
15 Birdsall Weter Prize for the outstanding honors thesis in History. I received a
16 Ph.D. in History in 1981 from Yale University, where I received the Theron
17 Rockwell Field Prize for the outstanding dissertation in the humanities and the
18 George Washington Eggleston Prize for the outstanding dissertation in American
19 history. I have taught courses in history, the social sciences, and statistics since
20 1978, with a focus on criminology and the history of crime. A true and correct
21 copy of my curriculum vitae is attached as **Exhibit A** to this Report.

22 3. I am the author of *American Homicide* (The Belknap Press of the
23 Harvard University Press, 2009), which received the 2011 Michael J. Hindelang
24 Award from the American Society of Criminology awarded annually for the book
25 published over the three previous years that “makes the most outstanding
26 contribution to research in criminology over the previous three years,”² and the

27

28 ² See American Society of Criminology, Michel J. Hindelang outstanding

1 2010 Allan Sharlin Memorial Book Award from the Social Science History
2 Association for outstanding books in social science history.³ *American Homicide*
3 was also named one of the Outstanding Academic Books of 2010 by *Choice*, and
4 the outstanding book of 2009 by *reason.com*. The book is an interregional,
5 internationally comparative study of homicide in the United States from colonial
6 times to the present. I am a Fellow of the American Association for the
7 Advancement of Science, and I have served as a member of the National Academy
8 of Sciences Roundtable on Crime Trends, 2013-2016, and as a member of the
9 Editorial Board of the *American Historical Review*, the most influential journal in
10 the discipline. And in 2022 I received the inaugural Distinguished Scholar Award
11 from the Historical Criminology Division of the American Society of Criminology.

12 4. I am the principal investigator on the National Homicide Data
13 Improvement Project, a project funded by the National Science Foundation (SES-
14 1228406, https://www.nsf.gov/awardsearch/showAward?AWD_ID=1228406) and
15 the Harry Frank Guggenheim Foundation to improve the quality of homicide data
16 in the United States from 1959 to the present. The pilot project on Ohio has drawn
17 on a wide range of sources in its effort to create a comprehensive database on
18 homicides (including narratives of each incident) based on the mortality statistics of
19 the Ohio Department of Health, the confidential compressed mortality files of the
20 National Center for Health Statistics, the F.B.I.'s Supplementary Homicide Reports,
21 death certificates, coroner's reports, the homicide case files of Cincinnati,
22 Cleveland, and Columbus, obituaries, and newspaper accounts.

23 5. I have published numerous essays on the history of violence and the
24 use of firearms in the United States, including a) "Guns, Gun Culture, and

25 _____
26 Book Award Recipients, <https://asc41.com/about-asc/awards/michael-j-hindelang-outstanding-book-award-recipients/>.

27 ³ See Social Science History Association, Allan Sharlin Memorial Book
28 Award, https://ssha.org/awards/sharlin_award/.

1 Homicide: The Relationship between Firearms, the Uses of Firearms, and
2 Interpersonal Violence in Early America,” *William and Mary Quarterly* (2002) 59:
3 223-240 (https://www.jstor.org/stable/3491655#metadata_info_tab_contents); b)
4 “Counting Guns: What Social Science Historians Know and Could Learn about
5 Gun Ownership, Gun Culture, and Gun Violence in the United States,” *Social*
6 *Science History* (2002) 26: 699-708
7 (https://www.jstor.org/stable/40267796#metadata_info_tab_contents); c) “Why
8 Guns Are and Aren’t the Problem: The Relationship between Guns and Homicide
9 in American History,” in Jennifer Tucker, Barton C. Hacker, and Margaret Vining,
10 eds., *A Right to Bear Arms? The Contested Role of History in Contemporary*
11 *Debates on the Second Amendment* (Washington, D.C.: Smithsonian Institution
12 Scholarly Press, 2019); and d) “The Opioid Epidemic and Homicide in the United
13 States,” co-authored with Richard Rosenfeld and Joel Wallman, in the *Journal of*
14 *Research in Crime and Delinquency* (2021)
15 ([https://www.researchgate.net/publication/348513393_The_Opioid_Epidemic_and](https://www.researchgate.net/publication/348513393_The_Opioid_Epidemic_and_Homicide_in_the_United_States)
16 [Homicide_in_the_United_States](https://www.researchgate.net/publication/348513393_The_Opioid_Epidemic_and_Homicide_in_the_United_States)).

17 6. I am also co-founder and co-director of the Historical Violence
18 Database. The web address for the Historical Violence Database is:
19 <http://cjrc.osu.edu/research/interdisciplinary/hvd>. The historical data on which this
20 Report draws are available through the Historical Violence Database. The
21 Historical Violence Database is a collaborative project by scholars in the United
22 States, Canada, and Europe to gather data on the history of violent crime and
23 violent death (homicides, suicides, accidents, and casualties of war) from medieval
24 times to the present. The project is described in Randolph Roth et al., “The
25 Historical Violence Database: A Collaborative Research Project on the History of
26 Violent Crime and Violent Death.” *Historical Methods* (2008) 41: 81-98
27 ([https://www.tandfonline.com/doi/pdf/10.3200/HMTS.41.2.81-](https://www.tandfonline.com/doi/pdf/10.3200/HMTS.41.2.81-98?casa_token=PfjkgMsciOwAAAAA:1HrNKToUGfQT4T-)
28 [98?casa_token=PfjkgMsciOwAAAAA:1HrNKToUGfQT4T-](https://www.tandfonline.com/doi/pdf/10.3200/HMTS.41.2.81-98?casa_token=PfjkgMsciOwAAAAA: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.⁴

7. 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

⁴ It is also essential, in the opinion of historians and historical social scientists involved in the Historical Violence Database, to use capture-recapture 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).

1 United States stem from our tireless commitment to empiricism. Our goal is to
2 gather accurate data on the character and incidence of violent crimes and to follow
3 the evidence wherever it leads, even when it forces us to accept the fact that a
4 hypothesis we thought might be true proved false. As my colleagues and I are fond
5 of saying in the Criminal Justice Network of the Social Science History
6 Association, the goal is not to be right, but to get it right. That is the only way to
7 design effective, pragmatic, nonideological laws and public policies that can help us
8 address our nation's problem of violence.

9 8. I have been retained by the California Department of Justice to render
10 expert opinions in this case. I am being compensated at a rate of \$250 per hour.

11 9. I have previously served as an expert witness in cases concerning the
12 constitutionality of state and municipal gun laws, including *Miller v. Bonta*, No.
13 3:19-cv-1537 (S.D. Cal.); *Duncan v. Bonta*, No. 3:17-cv-1017 (S.D. Cal.); *Ocean*
14 *State Tactical v. Rhode Island*, No. 22-cv-246 (D.R.I.); *Hanson v. District of*
15 *Columbia*, No. 1:22-cv-02256-RC (D.D.C.); *Capen v. Healey*, No. 22-cv-11431-
16 FDS (D. Mass.); and *Goldman v. City of Highland Park, Illinois*, No. 1:22-cv-
17 04774 (N.D. Ill.).

18 OPINIONS

19 I. SUMMARY OF OPINIONS

20 10. I have been asked by the California Department of Justice to provide
21 opinions on the history of homicides and mass murders in the United States, with
22 special attention to the role that technologies have played in shaping the character
23 and incidence of homicides and mass murders over time, and the historical
24 restrictions that local and federal authorities have imposed in response to new
25 technologies that they deemed particularly lethal, prone to misuse, and a danger to
26 the public because of the ways in which they reshaped the character and incidence
27 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.⁵ As a nation, we are still feeling the aftershocks of 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 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

⁵ 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 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.

1 weapons and extended magazines in the late twentieth century, have pushed the
2 homicide rate in United States well beyond what it would otherwise have been.

3 13. My opinion will address in turn: 1) firearms restrictions on colonists
4 from the end of the seventeenth century to the eve of the Revolution, when
5 homicide rates were low among colonists and firearms were seldom used in
6 homicides among colonists when they did occur; 2) the development during the
7 Founding and Early National periods of laws restricting the use or ownership of
8 concealable weapons in slave and frontier states, where homicide rates among
9 persons of European ancestry soared after the Revolution in large part because of
10 the increased manufacture and ownership of concealable percussion cap pistols and
11 fighting knives; 3) the spread of restrictions on carrying concealed weapons in
12 every state by World War I, as homicide rates rose across the nation, beginning
13 around the time of the Mexican War of 1846-1848 and lasting until World War I—
14 a rise caused in part by the invention of modern revolvers, which were used in a
15 majority of homicides by the late nineteenth century; 4) the difficulty that local and
16 federal officials faced from the colonial era into the early twentieth century in
17 addressing the threat of mass murders, which, because of the limitations of existing
18 technologies, were carried out by large groups of individuals acting in concert,
19 rather than by individuals or small groups; and 5) the spread of restrictions in the
20 twentieth and early twenty-first centuries on new technologies, including rapid-fire
21 firearms and large capacity magazines, that changed the character of mass murder,
22 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.⁶ 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.⁷ 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.⁸ 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 Clayton E. Cramer, “Colonial Firearms Regulation” (April 6, 2016). Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2759961.

⁷ 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.”

⁸ 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/cmf-icd10.html>, accessed Jan. 6, 2023).

1 usually a musket or a fowling piece.⁹ Fowling pieces, like muskets, were muzzle-
2 loading. But unlike muskets, were manufactured specifically to hunt birds and
3 control vermin, so they were designed to fire shot, primarily, rather than ball, and
4 were of lighter construction than muskets. Family, household, and intimate partner
5 homicides were rare, and only 10 to 15 percent of those homicides were committed
6 with guns.¹⁰ In New England, the rate of family and intimate partner homicides
7 stood at only 2 per million persons per year for European Americans and 3 per
8 million for African Americans for the seventeenth and most of the eighteenth
9 century, and fell to 1 per million for both European and African Americans after the
10 Revolution. The rates in the Chesapeake were likewise low, at 8 per million per
11 year for European Americans and 4 to 5 per million for African Americans.¹¹ And
12 because the homicide rate among unrelated adults was low, the proportion of
13 nondomestic homicides committed with guns was similarly low—never more than
14 10 to 15 percent.¹²

15 16. Firearm use in homicides was generally rare because muzzle-loading
16 firearms, such as muskets and fowling pieces, had significant limitations as murder
17 weapons in the colonial era.¹³ They were lethal and accurate enough at short range,
18 but they were liable to misfire, given the limits of flintlock technology; and with the
19 exception of a few double-barreled pistols, they could not fire multiple shots
20 without reloading.¹⁴ They could be used effectively to threaten and intimidate, but

21 ⁹ Randolph Roth, “Why Guns Are and Aren’t the Problem: The Relationship
22 between Guns and Homicide in American History,” in Jennifer Tucker, Barton C.
23 Hacker, and Margaret Vining, eds., *Firearms and the Common Law: History and
Memory* (Washington, D.C.: Smithsonian Institution Scholarly Press, 2019), 116.

24 ¹⁰ Roth, “Why Guns Are and Aren’t the Problem,” 116.

25 ¹¹ Roth, “Why Guns Are and Aren’t the Problem,” 116.

26 ¹² *Ibid.*, 116-119.

27 ¹³ *Ibid.*, 117.

28 ¹⁴ *Ibid.*

1 once they were fired (or misfired), they lost their advantage: they could only be
2 used as clubs in hand-to-hand combat. They had to be reloaded manually to enable
3 the firing of another shot, which was a time-consuming process that required skill
4 and experience.¹⁵ And more important, muzzle-loading firearms could not be used
5 impulsively unless they were already loaded for some other purpose.¹⁶ It took at
6 least half a minute (and plenty of elbow room) to load a muzzle-loader if the
7 weapon was clean and if powder, wadding, and shot or ball were at hand.¹⁷ The
8 user had to pour powder down the barrel, hold it in place with wadding, and drop or
9 ram the shot or ball onto the charge.¹⁸ The firing mechanism also had to be readied,
10 often with a fresh flint.¹⁹ And muzzle-loading guns were difficult to keep loaded
11 for any length of time, because black powder absorbed moisture and could corrode
12 the barrel or firing mechanism or make the charge liable to misfire.²⁰ The life of a
13 charge could be extended by storing a gun in a warm, dry place, typically over a
14 fireplace, but even there, moisture from boiling pots, drying clothes, or humid
15 weather could do damage.²¹ That is why most owners stored their guns empty,
16 cleaned them regularly, and loaded them anew before every use.²²

17
18
19 ¹⁵ Harold L. Peterson, *Arms and Armor in Colonial America, 1526-1783*
20 (New York: Bramhall House, 1956), 155-225; Priya Satia, *Empire of Guns: The*
21 *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.

22 ¹⁶ Roth, "Why Guns Are and Aren't the Problem," 117.

23 ¹⁷ Ibid.

24 ¹⁸ Ibid.

25 ¹⁹ Ibid.

26 ²⁰ Ibid.

27 ²¹ Ibid.

28 ²² Ibid.; and Herschel C. Logan, *Cartridges: A Pictorial Digest of Small Arms*
Ammunition (New York: Bonanza Books, 1959), 11-40, 180-183.

1 17. The infrequent use of guns in homicides in colonial America reflected
2 these limitations. Family and household homicides—most of which were caused
3 by abuse or fights between family members that got out of control—were
4 committed almost exclusively with hands and feet or weapons that were close to
5 hand: whips, sticks, hoes, shovels, axes, or knives.²³ It did not matter whether the
6 type of homicide was rare—like family and intimate homicides—or common, like
7 murders of servants, slaves, or owners committed during the heyday of indentured
8 servitude or the early years of racial slavery.²⁴ Guns were not the weapons of
9 choice in homicides that grew out of the tensions of daily life.²⁵

10 18. When colonists anticipated violence or during times of political
11 instability gun use was more common. When homicide rates were high among
12 unrelated adults in the early and mid-seventeenth century, colonists went armed to
13 political or interpersonal disputes,²⁶ so the proportion of homicides committed with
14 firearms was at that time 40 percent and rose even higher in contested areas on the
15 frontier.²⁷ Colonists also armed themselves when they anticipated hostile
16 encounters with Native Americans, so 60 percent of homicides of Native
17 Americans by European Americans in New England were committed with
18 firearms.²⁸ And slave catchers and posses kept their firearms at the ready, so 90
19 percent of runaway slaves who were killed in Virginia were shot.²⁹ Otherwise,

20 ²³ Roth, “Why Guns Are and Aren’t the Problem,” 117.

21 ²⁴ Ibid.

22 ²⁵ Ibid. Contrary to popular belief, dueling was also rare in colonial America.
23 Roth, *American Homicide*, 45, 158.

24 ²⁶ Roth, “Why Guns Are and Aren’t the Problem,” 118-119.

25 ²⁷ Ibid., 116-117.

26 ²⁸ Ibid., 118-119 (reporting that “In New England, 57 percent of such
27 homicides were committed with guns between the end of King Phillip’s War in
28 1676 and the end of the eighteenth century”).

²⁹ Ibid., 118 (reporting that “Petitions to the Virginia House of Burgesses for
compensation for outlawed slaves who were killed during attempts to capture them

1 however, colonists seldom went about with loaded guns, except to hunt, control
2 vermin, or muster for militia training.³⁰ That is why firearms had a modest impact
3 on homicide rates among colonists.

4 **B. The Rise in Violence in the South and on Contested Frontiers**
5 **during the Early National Period, the Role of New Technologies**
6 **and Practices, and Regulations on Concealable Weapons (1790s-**
7 **1840s)**

8 19. The Founding Generation was zealous in its defense of the people's
9 rights, and so enshrined them in the Constitution. At the same time, they
10 recognized that some citizens could be irresponsible or motivated by evil intent and
11 could thus threaten the security of the government and the safety of citizens.³¹ The
12 threats that such citizens posed to public safety could be checked in most instances
13 by ordinary criminal statutes, drawn largely from British common law. But at
14 times those threats could be checked only by statutes that placed limits on basic
15 rights.³²

16 indicate that 90 percent were shot").

17 ³⁰ Ibid., 118-119.

18 ³¹ On the fears of the Founders that their republic might collapse because
19 selfish or unscrupulous citizens might misuse their liberties, see Gordon S. Wood,
20 *The Creation of the American Republic, 1776-1787* (Chapel Hill: University of
21 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.

22 ³² On the Founders' belief that rights might have to be restricted in certain
23 instances, see Terri Diane Halperin, *The Alien and Sedition Acts: Testing the*
24 *Constitution* (Baltimore: Johns Hopkins University Press, 2016), 1-8, on restraints
25 on freedom of speech and the press during the administration of John Adams;
Leonard Levy, *Jefferson and Civil Liberties: The Darker Side* (Cambridge: The
Belknap Press of Harvard University Press, 1963), 93-141, on loosening restrictions
26 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*
27 *Concealed Carry* (New York: Prometheus Books, 2018), 70-121, especially 108-
28 109, 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),

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.³³ And they recognized that more civilians, expecting trouble with 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.³⁴ 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

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."

³³ Roth, *American Homicide*, 145-149; Holger Hock, *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, 149-152; 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.

³⁴ Roth, "Why Guns Are and Aren't the Problem," 119-120.

1 rates fell to levels in some instances even lower than those which had prevailed in
2 the early and mid-eighteenth century. By the 1820s, rates had fallen to 3 per
3 100,000 adults per year in Cleveland and Philadelphia, to 2 per 100,000 in rural
4 Ohio, and to 0.5 per 100,000 in northern New England. Only New York City stood
5 out, at 6 per 100,000 adults per year.³⁵ And the proportion of domestic and
6 nondomestic homicides committed with firearms was correspondingly low—
7 between 0 and 10 percent—because people once again generally refrained, as they
8 had from the Glorious Revolution through the French and Indian War, from going
9 about armed, except to hunt, control vermin, or serve in the militia.³⁶

10 21. The keys to these low homicide rates and low rates of gun violence in
11 New England, the Mid-Atlantic states, and the settled Midwest were successful
12 nation-building and the degree to which the promise of the democratic revolution
13 was realized. Political stability returned, as did faith in government and a strong
14 sense of patriotic fellow feeling, as the franchise was extended and political
15 participation increased.³⁷ And self-employment—the bedrock of citizenship, self-
16 respect, and respect from others—was widespread. By 1815, roughly 80 percent of
17 women and men owned their own homes and shops or farms by their mid-thirties;
18 and those who did not were often white-collar professionals who also received
19 respect from their peers.³⁸ African Americans still faced discrimination and limits
20 on their basic rights in most Northern states. But despite these barriers, most

21 ³⁵ Roth, *American Homicide*, 180, 183-186; and Eric H. Monkkonen, *Murder*
22 *in New York City* (Berkeley: University of California Press, 2001), 15-16.

23 ³⁶ For detailed figures and tables on weapons use in homicides by state, city,
24 or county, see Roth, “American Homicide Supplemental Volume: Weapons,”
25 available through the Historical Violence Database, sponsored by the Criminal
26 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.

27 ³⁷ Roth, *American Homicide*, 180, 183-186.

28 ³⁸ *Ibid.*, 180, 183-186.

1 African Americans in the North were optimistic, after slavery was abolished in the
2 North, about earning their own living and forming their own churches and
3 voluntary organizations.³⁹

4 22. That is why there was little interest among public officials in the North
5 in restricting the use of firearms during the Early National period, except in duels.
6 They took a strong stand against dueling in the wake of Alexander Hamilton's
7 death, because of the threat the practice posed for the nation's democratic polity
8 and the lives of public men: editors, attorneys, military officers, and politicians.⁴⁰

9 23. Laws restricting the everyday use of firearms did appear, however, in
10 the early national period in a number of slave states,⁴¹ where violence among
11 citizens increased after the Revolution to extremely high levels. Revolutionary
12 ideas and aspirations wreaked havoc on the status hierarchy of the slave South,
13 where homicide rates ranged from 8 to 28 per 100,000 adults per year.⁴² Poor and
14 middle-class whites were increasingly frustrated by their inability to rise in a
15

16
17 ³⁹ Ibid., 181-182, 195-196; Leon F. Litwack, *North of Slavery: The Negro in*
18 *the Free States, 1790-1860* (Chicago: University of Chicago Press, 1961); Joanne
19 Pope Melish, *Disowning Slavery: Gradual Emancipation and "Race" in New*
20 *England, 1780-1860* (Ithaca: Cornell University Press, 1998); Sean White,
21 *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).

22 ⁴⁰ Joanne B. Freeman, *Affairs of Honor: National Politics in the New*
23 *Republic* (New Haven: Yale University Press, 2001); and C. A. Harwell, "The End
24 of the Affair? Anti-Dueling Laws and Social Norms in Antebellum America,"
25 *Vanderbilt Law Review* 54 (2001): 1805-1847
26 (<https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=1884&context=vlr>).
27

28 ⁴¹ 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.

⁴² Roth, *American Homicide*, 180, 199-203.

1 society that remained class-bound and hierarchical.⁴³ Prominent whites were
2 subjected to the rough and tumble of partisan politics and their position in society
3 was threatened by people from lower social positions.⁴⁴ African Americans
4 despaired over the failure of the abolition movement in the South, and whites were
5 more fearful than ever of African American rebellion.⁴⁵ As a result, impatience
6 with restraint and sensitivity to insult were more intense in the slave South, and
7 during this period the region saw a dramatic increase in the number of deadly
8 quarrels, property disputes, duels, and interracial killings.⁴⁶ The violence spread to
9 frontier Florida and Texas, as well as to southern Illinois and Indiana—wherever
10 Southerners settled in the early national period.⁴⁷ During the Early National period,
11 the proportion of homicides committed with firearms went up accordingly, to a
12 third or two-fifths, as Southerners armed themselves in anticipation of trouble, or
13 set out to cause trouble.⁴⁸

14 24. Citizens and public officials in these states recognized that concealable
15 weapons—pistols, folding knives, dirk knives, and Bowie knives—were used in an
16 alarming proportion of the era’s murders and serious assaults.⁴⁹ They were used to
17 ambush both ordinary citizens and political rivals, to bully or intimidate law-
18 abiding citizens, and to seize the advantage in fist fights. As the Grand Jurors of

19 ⁴³ Ibid., 182.

20 ⁴⁴ Ibid.

21 ⁴⁵ Ibid.

22 ⁴⁶ Ibid., 182, 199-203.

23 ⁴⁷ Ibid., 162, 180-183, 199-203; Roth and James M. Denham, “Homicide in
24 Florida, 1821-1861,” *Florida Historical Quarterly* 86 (2007): 216-239; John Hope
25 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).

26 ⁴⁸ Roth, “American Homicide Supplemental Volume: Weapons,” Figures 51
27 through 57.

28 ⁴⁹ Roth, *American Homicide*, 218.

1 Jasper County, Georgia, stated in a plea to the state legislature in 1834 for
2 restrictions on concealable weapons,

3 The practice which is common amongst us with the young the middle
4 aged and the aged to arm themselves with Pistols, dirks knives sticks &
5 spears under the specious pretence of protecting themselves against
6 insult, when in fact being so armed they frequently insult others with
7 impunity, or if resistance is made the pistol dirk or club is immediately
8 resorted to, hence we so often hear of the stabbing shooting & murdering
9 so many of our citizens.⁵⁰

10 The justices of the Louisiana Supreme Court echoed these sentiments—“unmanly”
11 men carried concealed weapons to gain “secret advantages” over their
12 adversaries.⁵¹ These concealed weapons laws were notably difficult to enforce,
13 however, and did not address underlying factors that contributed to rising homicide
14 rates. Nevertheless, these laws represent governmental efforts at that time to
15 address the use of new weapons in certain types of crime.

16 25. The pistols of the early national period represented a technological
17 advance. Percussion-lock mechanisms enabled users to extend the life of a charge,
18 because unlike flint-lock mechanisms, they did not use hydroscopic black powder
19 in their priming pans; they used a sealed mercury-fulminate cap as a primer and
20 seated it tightly on a small nipple (with an inner diameter the size of a medium
21 sewing needle) at the rear of the firing chamber, which restricted the flow of air and
22 moisture to the chamber. Percussion cap pistols, which replaced flint-lock pistols
23 in domestic markets by the mid-1820s, could thus be kept loaded and carried
24 around for longer periods without risk of corrosion.⁵² The new types of knives
25 available in this era also represented technological advances over ordinary knives

26 ⁵⁰ Ibid., 218-219. See also the concerns of the Grand Jurors of Wilkes
27 County, Georgia, Superior Court Minutes, July 1839 term.

28 ⁵¹ Roth, *American Homicide*, 219.

⁵² Roth, “Why Guns Are and Aren’t the Problem,” 117.

1 because they were designed expressly for fighting. Dirks and Bowie knives had
2 longer blades than ordinary knives, crossguards to protect the combatants' hands,
3 and clip points to make it easier to cut or stab opponents.⁵³

4 26. The violence in the slave South and its borderlands, and the
5 technological advances that exacerbated it, led to the first prohibitions against
6 carrying certain concealable weapons, which appeared in Kentucky, Louisiana,
7 Indiana, Arkansas, Georgia, and Virginia between 1813 and 1838. These laws
8 differed from earlier laws that restricted access to arms by Native Americans or by
9 free or enslaved African Americans, because they applied broadly to *everyone* but
10 also applied more *narrowly* to certain types of weapons and to certain types of
11 conduct. Georgia's 1837 law "against the unwarrantable and too prevalent use of
12 deadly weapons" was the most restrictive. It made it unlawful for merchants

13 and any other person or persons whatsoever, to sell, or offer to sell, or to
14 keep, or have about their person or elsewhere . . . Bowie, or any other
15 kind of knives, manufactured or sold for the purpose of wearing, or
16 carrying the same as arms of offence or defence, pistols, dirks, sword
canes, spears, &c.

17 The sole exceptions were horseman's pistols—large weapons that were difficult to
18 conceal and were favored by travelers. But the laws in the other five states were
19 also strict: they forbid the carrying of concealable weapons in all circumstances.
20 Indiana made an exemption for travelers.⁵⁴

21 _____
22 ⁵³ Harold L. Peterson, *American Knives: The First History and Collector's*
23 *Guide* (New York: Scribner, 1958), 25-70; and Peterson, *Daggers and Fighting*
24 *Knives in the Western World, from the Stone Age till 1900* (New York: Walker,
1968), 67-80.

25 ⁵⁴ Cramer, *Concealed Weapons Laws*, especially 143-152, for the texts of
26 those laws. Alabama and Tennessee prohibited the concealed carrying of fighting
27 knives, but not pistols. See also the Duke Center for Firearms Law, Repository of
28 Historical Gun Laws ([https://firearmslaw.duke.edu/search-
results/?_sft_subjects=dangerous-or-unusual-weapons](https://firearmslaw.duke.edu/search-results/?_sft_subjects=dangerous-or-unusual-weapons), accessed Jan. 6, 2023).
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

27. Thus, during the lifetimes of Jefferson, Adams, Marshall, and Madison, the Founding Generation passed laws in a number of states that restricted 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.⁵⁵

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.⁵⁶ They did so in response

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.

⁵⁵ 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.

⁵⁶ 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 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

1 to two developments: the nationwide surge in homicide rates, from the North and
2 South to the Trans-Mississippi West; and the invention of new firearms, especially
3 the revolver, which enabled the firing of multiple rounds in succession without
4 reloading and made the homicide problem worse. Between the mid-nineteenth and
5 the early twentieth century homicide rates fell in nearly every Western nation.⁵⁷
6 But in the late 1840s and 1850s those rates exploded across the United States and
7 spiked even higher during the Civil War and Reconstruction, not only in the South
8 and the Southwest, where rates had already risen in the early national period, but in
9 the North. Rates that had ranged in the North in the 1830s and early 1840s from a
10 low of 1 per 100,000 adults per year in northern New England to 6 per 100,000 in
11 New York City, rose to between 2 and 33 per 100,000 in the northern countryside
12 and to between 10 and 20 per 100,000 in northern cities. In the South, rates in the
13 plantation counties of Georgia rose from 10 per 100,000 adults to 25 per 100,000,
14 and rates soared even higher in rural Louisiana to 90 per 100,000 and in mountain
15 communities in Georgia and Missouri from less than 5 per 100,000 adults per year
16 to 60 per 100,000. And in the West, the rates reached 65 per 100,000 adults per
17 year in California, 76 per 100,000 in Texas, 119 per 100,000 in mining towns in
18 South Dakota, Nevada, and Montana, and 155 per 100,000 in cattle towns in
19 Kansas. Americans, especially men, were more willing to kill friends,
20 acquaintances, and strangers. And so, the United States became—and remains
21 today—by far the most murderous affluent society in the world.⁵⁸

22 the intent or avowed purpose of injuring a fellow man, shall, upon conviction
23 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.”).

24 ⁵⁷ Roth, *American Homicide*, 297-300.

25 ⁵⁸ Ibid., 199, 297-300, 302, 337, 347; and Roth, Michael D. Maltz, and
26 Douglas L. Eckberg, “Homicide Rates in the Old West,” *Western Historical*
27 *Quarterly* 42 (2011): 173-195
28 (https://www.jstor.org/stable/westhistquar.42.2.0173#metadata_info_tab_contents)..

1 29. The increase occurred because America's heretofore largely successful
2 effort at nation-building failed catastrophically at mid-century.⁵⁹ As the country
3 struggled through the wrenching and divisive changes of the mid-nineteenth
4 century—the crises over slavery and immigration, the decline in self-employment,
5 and rise of industrialized cities—the patriotic faith in government that most
6 Americans felt so strongly after the Revolution was undermined by anger and
7 distrust.⁶⁰ Disillusioned by the course the nation was taking, people felt
8 increasingly alienated from both their government and their neighbors.⁶¹ They
9 were losing the sense that they were participating in a great adventure with their
10 fellow Americans.⁶² Instead, they were competing in a cutthroat economy and a
11 combative political system against millions of strangers whose interests and values
12 were antithetical to their own.⁶³ And most ominously, law and order broke down in
13 the wake of the hostile military occupation of the Southwest, the political crisis of
14 the 1850s, the Civil War, and Reconstruction.⁶⁴

15 30. The proportion of homicides committed with firearms increased as
16 well from the Mexican War through Reconstruction, as it had during previous
17 increases in nondomestic homicides during the Revolution, in the postrevolutionary
18 South, and on contested frontiers.⁶⁵ Because the pistols, muskets, and rifles in use
19 in the early years of the crisis of the mid-nineteenth century were still
20 predominantly single-shot, muzzle-loading, black powder weapons, the proportion

21 ⁵⁹ Ibid., 299-302, 384-385; and Roth, "American Homicide: Theory,
22 Methods, Body Counts," *Historical Methods* 43 (2010): 185-192.

23 ⁶⁰ Roth, *American Homicide*, 299-302, 384-385. See also Roth, "Measuring
24 Feelings and Beliefs that May Facilitate (or Deter) Homicide."

25 ⁶¹ Roth, *American Homicide*, 300.

26 ⁶² Ibid.

27 ⁶³ Ibid.

28 ⁶⁴ Ibid., 299-302, 332, 337, 354.

⁶⁵ Roth, "Why Guns Are and Aren't the Problem," 116-117.

1 of homicides committed with guns stayed in the range of a third to two-fifths,
2 except on the frontier.⁶⁶ Concealable fighting knives, together with concealable
3 percussion-cap pistols, remained the primary murder weapons. But in time, new
4 technologies added to the toll in lives, because of their lethality and the new ways
5 in which they could be used.

6 31. Samuel Colt's cap-and-ball revolvers, invented in 1836, played a
7 limited role in the early years of the homicide crisis, but they gained popularity
8 quickly because of their association with frontiersmen, Indian fighters, Texas
9 Rangers, and cavalrymen in the Mexican War.⁶⁷ They retained some of the
10 limitations of earlier firearms, because their rotating cylinders—two of which came
11 with each revolver—had to be loaded one chamber at a time. Users had to seat a
12 percussion cap on a nipple at the rear of each chamber, pour powder into each
13 chamber, secure the powder with wadding, and ram the bullet down the chamber
14 with a rod or an attached loading lever. Thus cap-and-ball revolvers, like muzzle-
15 loaders, could not be loaded quickly, nor could they be kept loaded indefinitely
16 without risk of damaging the charge or the gun. But they were deadlier than their
17 predecessors, because they made it possible for a person to fire five or six shots in
18 rapid succession and to reload quickly with the second cylinder.⁶⁸

21 ⁶⁶ Roth, "American Homicide Supplemental Volume: Weapons," Figures 25
22 through 46, and 51 through 57.

23 ⁶⁷ Patricia Haag, *The Gunning of America: Business and the Making of*
24 *American Gun Culture* (New York: Basic Books, 2016).

25 ⁶⁸ Edward C. Ezell, *Handguns of the World: Military Revolvers and Self-*
26 *Loaders from 1870 to 1945* (Harrisburg, Pennsylvania: Stackpole Books, 1981), 24-
27 28; Julian S. Hatcher, *Pistols and Revolvers and Their Use* (Marshallton, Delaware:
28 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.

1 32. Smith and Wesson's seven-shot, .22 caliber, breech-loading, Model 1
2 rimfire revolver, invented in 1857, appeared on the market when the homicide crisis
3 was already well underway. But it had none of the limitations of percussion-cap
4 pistols or cap-and-ball revolvers. It could be loaded quickly and easily because it
5 did not require powder, wadding, and shot for each round; and it could be kept
6 loaded indefinitely because its corrosive powder was encapsulated in the bullet.⁶⁹
7 And it did not require a new percussion cap for each chamber, because the primer
8 was located in a rim around the base of the bullet, set to ignite as soon as it was hit
9 by the hammer.⁷⁰ As Smith and Wesson noted in its advertisements,

10 Some of the advantages of an arm constructed on this plan are:
11 The convenience and safety with which both the arm and ammunition
12 may be carried;
13 The facility with which it may be charged, (it requiring no ramrod,
14 powder-flask, or percussion caps);
15 Certainty of fire in damp weather;
16 That no injury is caused to the arm or ammunition by allowing it to
17 remain charged any length of time.⁷¹

18 33. Smith and Wesson had created a near-perfect murder weapon. It was
19 lethal, reliable, easy to carry and conceal, capable of multiple shots, and ready to
20 use at any time.⁷² Its only drawbacks were its small caliber and low muzzle
21 velocity, which limited its ability to stop an armed or aggressive adversary on the
22 first shot, and the difficulty and danger of reloading. The reloading problem was
23 remedied by Colt's development in 1889 of the first double-action commercial

24 ⁶⁹ Roy G. Jinks, *History of Smith and Wesson* (North Hollywood: Beinfeld,
25 1977), 38-57.

26 ⁷⁰ *Ibid.*, 38-57.

27 ⁷¹ *Ibid.*, 39.

28 ⁷² *Ibid.*, 38-57.

1 revolver with a swing-out cylinder and Smith and Wesson's addition in 1896 of an
2 ejector to push out spent cartridges.⁷³

3 34. These new weapons were not the primary cause of the surge in
4 violence that occurred in the United States from the Mexican War through
5 Reconstruction. But they did contribute to the later stages of the crisis, as they
6 superseded knives and black powder handguns as the primary weapons used in
7 interpersonal assaults, not only because of their greater lethality, but because they
8 were used in novel ways.⁷⁴ Easily concealed, they became the weapons of choice
9 for men who stalked and ambushed estranged spouses or romantic partners, for
10 suspects who killed sheriffs, constables, or police officers, and for self-styled
11 toughs who engaged in shootouts in bars, streets, and even churchyards.⁷⁵ And as
12 modern, breech-loading firearms replaced the muzzle-loading and cap-and-ball
13 gunstock from the late 1850s through World War I, the proportion of homicides
14 committed with firearms continued to climb even when homicide rates fell for a
15 short time, as they did at the end of Reconstruction. By the eve of World War I,
16 rates had fallen in the New England states to 1 to 4 per 100,000 adults per year, to 2
17 to 5 per 100,000 in the Prairie states, and 3 to 8 per 100,000 in the industrial states.
18 In the West, rates had fallen to 12 per 100,000 adults per year in California, 15 per
19 100,000 in Colorado, and approximately 20 to 30 per 100,000 in Arizona, Nevada,
20 and New Mexico. Homicide rates whipsawed, however, in the South. They fell in

21 ⁷³ Rick Sapp, *Standard Catalog of Colt Firearms* (Cincinnati: F+W Media,
22 2011), 96; Jeff Kinard, *Pistols: An Illustrated History of Their Impact* (Santa
23 Barbara: ABC-CLIO, 2003), [163](#); and Jinks, *History of Smith and Wesson*, 104-170.

24 ⁷⁴ Roth, "Why Guns Are and Aren't the Problem," 124-126 (recognizing that
25 "Americans used the new firearms in ways they could never use muzzle-loading
26 guns [. . .] The ownership of modern breech-loading [firearms] made the homicide
27 rate worse in the United States than it would have been otherwise because it
28 facilitated the use of *lethal* violence in a *wide variety of circumstances*."') (emphasis
added).

⁷⁵ *Ibid.*, 124-125.

1 the late 1870s and 1880s, only to rise in the 1890s and early twentieth century, to
2 just under 20 per 100,000 adults in Florida, Kentucky, Louisiana, Missouri, and
3 Tennessee, and 35 per 100,000 in Virginia and North Carolina.⁷⁶ Ominously, too,
4 firearms invaded families and intimate relationships, so relatives, spouses, and
5 lovers were as likely to be killed with guns as unrelated adults—something that had
6 never happened before in America’s history.⁷⁷ That is why the proportion of
7 homicides committed with firearms—overwhelmingly, concealed revolvers—
8 reached today’s levels by the 1920s, ranging from a median of 56 percent in New
9 England and over 70 percent in the South and West.⁷⁸ And that is why every state
10 in the Union restricted the right to carrying certain concealable weapons.

11 35. It is important to note that state legislators experimented with various
12 degrees of firearm regulation, as the nation became more and more violent. In
13 Texas, where the homicide rate soared to at least 76 per 100,000 adults per year
14 from June, 1865, to June, 1868,⁷⁹ the legislature passed a time-place-manner
15 restriction bill in 1870 to prohibit the open or concealed carry of a wide range of
16 weapons, including firearms, on social occasions;⁸⁰ and it followed in 1871 with a

17 ⁷⁶ Ibid., 125-127, 388, 403-404; and Roth, “American Homicide
18 Supplemental Volume: American Homicides in the Twentieth Century,” Figures 4a
19 and 5a.

20 ⁷⁷ Ibid., 125.

21 ⁷⁸ Roth, “American Homicide Supplemental Volume: Weapons,” Figures 2
22 through 7.

23 ⁷⁹ Roth, Michael D. Maltz, and Douglas L. Eckberg, “Homicide Rates in the
24 Old West,” *Western Historical Quarterly* 42 (2011): 192
25 (https://www.jstor.org/stable/westhistquar.42.2.0173#metadata_info_tab_contents).

26 ⁸⁰ Brennan Gardner Rivas, “Enforcement of Public Carry Restrictions: Texas
27 as a Case Study,” *UC Davis Law Review* 55 (2021): 2609-2610
28 (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

1 bill banning in most circumstances the carrying, open or concealed, of small deadly
2 weapons, including pistols, that were not designed for hunting or militia service.⁸¹

3
4 State are collected to vote at any election, or to any other place where people may
5 be assembled to muster or perform any other public duty, or any other public
6 assembly, and shall have about his person a bowie-knife, dirk or butcher-knife, or
7 fire-arms, whether known as a six-shooter, gun or pistol of any kind, such person so
8 offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall
9 be fined in a sum not less than fifty or more than five hundred dollars, at the
10 discretion of the court or jury trying the same; provided, that nothing contained in
11 this section shall apply to locations subject to Indian depredations; and provided
12 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>).

81 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 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

1 These laws were enforced with little or no racial bias until the 1890s, when white
2 supremacists disfranchised African Americans, legalized segregation, and took firm
3 control of the courts and law enforcement.⁸²

4 36. Tennessee and Arkansas went farther than Texas to stem the tide of
5 post-Civil War interpersonal violence. In 1871, Tennessee flatly prohibited the
6 carrying of pocket pistols and revolvers, openly or concealed, except for the large
7 army and navy pistols commonly carried by members of the military, which could
8
9

10 _____
11 into a ball room, social party, or social gathering, or to any election precinct on the
12 day or days of any election, where any portion of the people of this State are
13 collected to vote at any election, or to any other place where people may be
14 assembled to muster, or to perform any other public duty, (except as may be
15 required or permitted by law,) or to any other public assembly, and shall have or
16 carry about his person a pistol or other firearm, dirk, dagger, slung shot, sword
17 cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured
18 and sold for the purposes of offense and defense, unless an officer of the peace, he
19 shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first
20 offense, be punished by fine of not less than fifty, nor more than five hundred
21 dollars, and shall forfeit to the county the weapon or weapons so found on his
22 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”

23 See also Brennan Gardner Rivas, “The Deadly Weapon Laws of Texas:
24 Regulating Guns, Knives, and Knuckles in the Lone Star State, 1836-1930 (Ph. D.
25 dissertation: Texas Christian University, 2019), 72-83, 124-163
(<https://repository.tcu.edu/handle/116099117/26778>).

26 ⁸² Rivas, “Enforcement of Public Carry Restrictions,” 2609-2620. The study
27 draws on enforcement data from four Texas counties, 1870-1930: 3,256 total cases,
28 of which 1,885 left a record of final adjudication. See also Rivas, “Deadly Weapon
Laws of Texas,” 164-195.

1 be carried openly, but not concealed.⁸³ Arkansas followed suit in 1881.⁸⁴
2 Tennessee's law withstood a court challenge, and Arkansas's was never
3 challenged.⁸⁵ And both states moved to prevent the sale or transfer of pocket
4 pistols or ordinary revolvers. In 1879, Tennessee prohibited "any person to sell, or
5 offer to sell, or bring into the State for the purpose of selling, giving away, or
6 otherwise disposing of, belt or pocket pistols, or revolvers, or any other kind of
7 pistol, except army or navy pistols."⁸⁶ Arkansas passed a similar prohibition in
8 1881, but went even further by prohibiting the sale of pistol cartridges as well:
9 "Any person who shall sell, barter, or exchange, or otherwise dispose of, or in any
10 manner furnish to any person any dirk or bowie knife, or a sword or a spear in a
11 cane, brass or metal knucks, or any pistol, of any kind of whatever, except as are
12 used in the army or navy of the United States, and known as the navy pistol, or any

13
14 ⁸³ 1871 Tenn. Pub. Acts 81, An Act to Preserve the Peace and to Prevent Homicide,
15 ch. 90, § 1; *State v. Wilburn*, 66 Tenn. 57, 61 (1872) ("It shall not be lawful for any
16 person to publicly carry a dirk, sword cane, Spanish stiletto, belt or pocket pistol, or
17 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.").

18 ⁸⁴ 1881 Ark. Acts 191, An Act to Preserve the Public Peace and Prevent
19 Crime, chap. XCVI, § 1-2 ("That any person who shall wear or carry, in any
20 manner whatever, as a weapon, any dirk or bowie knife, or a sword, or a spear in a
21 cane, brass or metal knucks, razor, or any pistol of any kind whatever, except such
22 pistols as are used in the army or navy of the United States, shall be guilty of a
23 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.").

24 ⁸⁵ See Brennan Gardner Rivas, "The Problem with Assumptions: Reassessing
25 the Historical Gun Policies of Arkansas and Tennessee," *Second Thoughts*, Duke
26 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/>.

27 ⁸⁶ 1879 Tenn. Pub. Act 135-36, An Act to Prevent the Sale of Pistols, chap.
28 96, § 1; *State v. Burgoyne*, 75 Tenn. 173, 173-74 (1881).

1 kind of cartridge for any pistol, or any person who shall keep such arms or
2 cartridges for sale, shall be guilty of a misdemeanor.”⁸⁷

3 37. California’s legislature, recognizing that the homicide rate had reached
4 catastrophic levels (over 65 per 100,000 adults per year),⁸⁸ banned concealed
5 weapons in 1863, because, as the editor of the *Daily Alta Californian* declared,

6 During the thirteen years that California has been a State, there have been
7 more deaths occasioned by sudden assaults with weapons previously
8 concealed about the person of the assailant or assailed, than by all other
9 acts of violence which figure on the criminal calendar.... For many
10 sessions prior to the last, ineffectual efforts were made to enact some
11 statute which would effectually prohibit this practice of carrying
12 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.⁸⁹

13 38. But the legislature repealed the law in 1870, as public sentiment
14 veered back toward the belief that the effort to make California less violent was
15 hopeless, and that the only protection law-abiding citizens could hope for was to
16 arm themselves. And the legislature once again had the enthusiastic support of the
17 editor of the *Daily Alta Californian*, which then opined, “As the sovereignty resides
18 in the people in America, they are to be permitted to keep firearms and other
19

20 ⁸⁷ Acts of the General Assembly of Arkansas, No. 96 § 3 (1881).

21 ⁸⁸ Roth, Maltz, and Eckberg, “Homicide Rates in the Old West,” 183. On
22 violence in California and across the Far West, see Roth, Maltz, and Eckberg,
23 “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
24 Press, 1997); McKanna, *Race and Homicide in Nineteenth-Century California*
25 (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.

26 ⁸⁹ Clayton E. Cramer and Joseph Olson, “The Racist Origins of California’s
27 Concealed Weapon Permit Law,” Social Science Research Network, posted August
28 12, 2016, 6-7 (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2599851).

1 weapons and to carry them at their pleasure.”⁹⁰ A number of counties dissented,
2 however, and made it a misdemeanor to carry a concealed weapon without a
3 permit—ordinances that they enforced.⁹¹ In 1917, the state made it a misdemeanor
4 to carry a concealed weapon in incorporated cities and required that gun dealers
5 register handgun sales and send the Dealer’s Record of Sale to local law
6 enforcement.⁹² And in 1923, the state extended the licensing requirement to
7 unincorporated areas and prohibited non-citizens from carrying concealed
8 weapons.⁹³

9 39. Other states, like Ohio, tried to have it both ways. The Ohio
10 legislature banned the carrying of concealable weapons in 1859, citing public
11 safety. But it directed jurors, in the same law, to acquit persons who carried such
12 weapons,

13 If it shall be proved to the jury, from the testimony on the trial of any
14 case presented under the first section of this act, that the accused was, at
15 the time of carrying any of the weapon or weapons aforesaid, engaged in
16 the pursuit of any lawful business, calling, or employment, and that the
17 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.⁹⁴

18 The burden of proof remained with the person who carried the concealed weapon.

19 40. It is important to remember, however, that even when states enacted
20 different types of firearms restrictions, the fact remains that many jurisdictions

21 ⁹⁰ Cramer and Olson, “Racist Origins of California’s Concealed Weapon
22 Permit Law,” 7-10.

23 ⁹¹ Ibid., 11.

24 ⁹² Ibid., 11-13.

25 ⁹³ Ibid., 13-15. Note that the title of the Cramer and Olson essay is
26 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.

27 ⁹⁴ Joseph R. Swan, *The Revised Statutes of the State of Ohio, of a General*
28 *Nature, in Force August 1, 1860* (Cincinnati: Robert Clarke & Co., 1860), 452.

1 enacted statutory restrictions at that time to ensure the safety of the public and law
2 enforcement.

3 **III. ADDRESSING THREATS TO THE REPUBLIC AND ITS CITIZENS FROM**
4 **MASS MURDERERS FROM THE REVOLUTION INTO THE EARLY**
5 **TWENTIETH CENTURY**

6 41. The Republic faced threats not only from individual murderers, but
7 from groups of murderers. Mass murder has been a fact of life in the United States
8 since the mid-nineteenth century, when lethal and nonlethal violence of all kinds
9 became more common. But mass murder was a group activity through the
10 nineteenth century because of the limits of existing technologies.⁹⁵ The only way to
11 kill a large number of people was to rally like-minded neighbors and go on a
12 rampage with clubs, knives, nooses, pistols, shotguns, or rifles—weapons that were
13 certainly lethal but did not provide individuals or small groups of people the means
14 to inflict mass casualties on their own. Mass killings of this type were rare in the
15 colonial, Revolutionary, and Early National eras, outside of massacres of Native
16 Americans or irregular warfare among citizens seeking political power.⁹⁶ But from
17 the 1830s into the early twentieth century, mass killings were common.

18 ⁹⁵ On the history of mob violence, including riots and popular protests that
19 led to mass casualties, see Paul A. Gilje, *Rioting in America* (Bloomington: Indiana
20 University Press, 1996); and David Grimsted, *American Mobbing: Toward Civil
21 War* (New York: Oxford University Press, 1996).

22 ⁹⁶ For examples of massacres of unarmed Native Americans, see the murder
23 in 1623 of six Massachusetts men by a party from Plymouth Colony, led by Captain
24 Miles Standish [Roth, *American Homicide*, 42]; and the massacre in 1782 of 96
25 pacifist Moravian Delaware Indians at Gnadenhutzen in present-day Ohio [Rob
26 Harper, “Looking the Other Way: The Gnadenhutzen Massacre and the Contextual
27 Interpretation of Violence,” *William and Mary Quarterly* (2007) 64: 621-644
28 (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,
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*

1 42. Examples include Nat Turner's rebellion in Southampton County,
2 Virginia, in 1831, which claimed sixty-nine lives; the murder of seventeen
3 Mormons, perpetrated by militia men and vigilantes at Haun's Mill, Missouri in
4 1838; Bloody Monday in Louisville, Kentucky, where an assault by nativist
5 Protestants on Irish and German Catholics in 1855 left twenty-two people dead; and
6 the murder of nineteen Chinese Americans by a racist mob in Los Angeles in 1871.
7 Because these mass killings were almost always spontaneous and loosely
8 organized, they were difficult for government to prevent. Worse, in some incidents,
9 such as the Haun's Mill Massacre, state and local governments were complicit; and
10 in others, state and local governments turned a blind eye to the slaughter, as was the
11 case in the murder of Chinese farm workers in Chico, California, in 1877.⁹⁷

12 43. The Federal government did act during Reconstruction, however, to
13 prevent mass murder when formally organized white supremacist organizations
14 engaged in systematic efforts to deprive African Americans of their civil rights,
15 which had been guaranteed by the Thirteenth, Fourteenth, and Fifteenth
16 Amendments. The Ku Klux Klan Acts of 1870 and 1871, meant to prevent
17 assassinations and mass shootings and lynchings by white supremacist terrorists,

18 _____
19 *Children: The Bosket Family and the American Tradition of Violence* (New York:
Vintage, 2008), 5-6.

20 ⁹⁷ David F. Almendinger, Jr., *Nat Turner and the Rising in Southampton*
21 *County* (Baltimore: Johns Hopkins Press, 2014); Patrick H. Breen, *The Land Shall*
22 *Be Deluged in Blood: A New History of the Nat Turner Revolt* (New York: Oxford

23 *University Press*, 2015); Stephen B. Oates, *The Fires of Jubilee: Nat Turner's*
24 *Fierce Rebellion* (New York: Harper and Row, 1975); Stephen C. LeSueur, *The*
25 *1838 Mormon War in Missouri* (Columbia: University of Missouri Press, 1987),
26 162-168; Brandon G. Kinney, *The Mormon War: Zion and the Missouri*
27 *Extermination Order of 1838* (Yardley, Pennsylvania: Westholme, 2011); Mary
28 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.

1 were effective when enforced by the federal government and the U.S. Army.⁹⁸ But
2 when federal troops were withdrawn, white supremacist mass killings resumed. In
3 New Orleans, for example, an ultimately successful effort by white-supremacist
4 Democrats to seize control of the city's government by violent means left dozens of
5 Republican officials and police officers shot dead and scores wounded.⁹⁹ And the
6 Klan Acts did nothing to prevent mass murders by spontaneous mobs and loosely
7 organized vigilantes. Rioters and vigilantes remained a threat well into the
8 twentieth century. In 1921 more than three hundred African American citizens
9 were murdered in the Tulsa Race Massacre in Oklahoma.¹⁰⁰

10 **IV. ADDRESSING THREATS TO THE REPUBLIC AND ITS CITIZENS FROM**
11 **MASS MURDERERS FROM THE EARLY TWENTIETH CENTURY TO THE**
12 **PRESENT**

13 44. The character of mass murder began to change in the late nineteenth
14 and early twentieth century with the invention and commercial availability of new
15 technologies that gave individuals or small groups of people the power to kill large
16 numbers of people in a short amount of time. These technologies proved useful to
17 criminal gangs, anarchists, and factions of the labor movement intent on killing
18 adversaries, public officials, and law enforcement officers. The technologies that
19 were most widely used by criminals and terrorists were dynamite, invented by

20 ⁹⁸ Alan Trelease, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (New York: Harper and Row, 1975).

21 ⁹⁹ Dennis C. Rousey, *Policing the Southern City: New Orleans, 1805-1889*
22 (Baton Rouge: Louisiana State University Press, 1996), 151-158. See also
23 LeeAnna Keith, *The Colfax Massacre: The Untold Story of Black Power, White*
24 *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.

25 ¹⁰⁰ On the deadly race riots of 1919-1921, see William M. Tuttle, Jr., *Race*
26 *Riot: Chicago in the Red Summer of 1919* (New York: Atheneum, 1970); Scott
27 Ellsworth, *Death in a Promised Land: The Tulsa Race Riot of 1921* (Baton Rouge:
28 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).

1 Alfred Nobel in 1866, and the Thompson submachine gun, invented in 1918 by
2 General John T. Thompson, who improved upon a pioneering German design.

3 45. The advantage of dynamite over nitroglycerin and other explosives
4 used in mining and construction was its power and its stability, which made
5 accidental explosions rare. The advantages of submachine guns over existing
6 machine guns as weapons of war were that they were light enough to be carried and
7 operated by a single individual, and they were capable of firing .45 caliber bullets
8 from 20-round clips or 50- or 100-round drum magazines at a rate of 600 to 725
9 rounds per minute.¹⁰¹

10 46. Criminals and terrorists quickly discovered how accessible and useful
11 these new technologies were. They could be purchased legally by private citizens.
12 In the 1920s, Thompson submachine guns were expensive. They sold for \$175 to
13 \$225 each, at a time when a new Ford cost \$440 (the rough equivalent of \$2996 to
14 \$3852 today, while now a base model of the AR-15 semiautomatic rifle can be
15 purchased for less than \$400 and a 30-round magazine for as little as \$10).¹⁰² That
16 is why Thompsons were favored by those with resources: law enforcement, the
17 Irish Republican Army, Sandinista rebels in Nicaragua, and bank robbers.
18 Dynamite, however, cost only 18 cents a pound (the rough equivalent of \$3.08
19 today), so it was favored by labor activists and anarchists.¹⁰³ Federal, state, and

20 ¹⁰¹ Herta E. Pauli, *Alfred Nobel: Dynamite King, Architect of Peace* (New
21 York: L. B. Fisher, 1942); and Bill Yenne, *Tommy Gun: How General Thompson's
22 Submachine Gun Wrote History* (New York: Thomas Dunne Books, 2009).

23 ¹⁰² Yenne, *Tommy Gun*, 86. Estimates vary on the purchasing power of 1919
24 dollars in today's dollars, but \$1.00 in 1919 was worth roughly \$17.12 today. See
25 the CPI Inflation Calculator (<https://bit.ly/3CS5UNl>), accessed Jan. 6, 2023. The
26 prices of AR-15 style rifles today are from guns.com
27 (<https://www.guns.com/firearms/ar-15-rifles?priceRange=%24250%20-%20%24499>),
28 accessed Jan. 6, 2023. 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 Jan. 6, 2023.

¹⁰³ Department of Commerce, Bureau of the Census, *Fourteenth Census of*

1 local officials and law enforcement officers suddenly confronted novel threats to
2 their personal safety. Submachine guns were used most notoriously in gangland
3 slayings in Chicago during the Prohibition Era, such as the St. Valentine's Day
4 Massacre and the Kansas City Massacre.¹⁰⁴ Dynamite was used in a string of
5 anarchist bombings in 1919-1920. Those included the murder of 38 people and the
6 wounding of 143 in an attack on Wall Street, 36 dynamite bombs mailed to justice
7 officials, newspaper editors, and businessmen (including John D. Rockefeller), and
8 a failed attempt to kill Attorney General A. Mitchell Palmer and his family.¹⁰⁵
9 Dynamite was also used effectively for malicious, private ends. For example,
10 Osage Indians were murdered by an individual in Oklahoma in an attempt to gain
11 their headrights and profit from insurance policies on them.¹⁰⁶

12
13
14 *the United States Manufactures: Explosives* (Washington, D.C.: Government
15 Printing Office, 1922), 6. Note that a pound of dynamite would be far more
16 expensive today—potentially hundreds of thousands of dollars—because it would
17 require the purchase of a blasting license, a storage bunker, and an isolated plot of
18 land for the storage bunker. See U.S Department of Justice, Bureau of Alcohol,
19 Tobacco, Firearms, and Explosives, Enforcement Programs and Services, *ATF*
20 *Federal Explosives Law and Regulations, 2012*
21 ([https://www.atf.gov/explosives/docs/report/publication-federal-explosives-laws-
and-regulations-atf-p-54007/download](https://www.atf.gov/explosives/docs/report/publication-federal-explosives-laws-and-regulations-atf-p-54007/download)), accessed Jan. 6, 2023.

22 ¹⁰⁴ William Helmer and Arthur J. Bilek, *The St. Valentine's Day Massacre:
The Untold Story of the Bloodbath That Brought Down Al Capone* (Nashville:
23 Cumberland House, 2004); and Yenne, *Tommy Gun*, 74-78, 91-93.

24 ¹⁰⁵ Paul Avrich, *Sacco and Vanzetti: The Anarchist Background* (Princeton:
25 Princeton University Press, 1991), 140-156, 181-195; Beverly Gage, *The Day Wall
Street Exploded: A Story of American in Its First Age of Terror* (New York: Oxford
26 University Press, 2009); David Rapoport, *Waves of Global Terrorism: From 1879 to
the Present* (New York: Columbia University Press, 2022), 65-110. Consider also
27 the bombing of the office of the *Los Angeles Times* in 1910 by two union activists,
28 which killed 21 persons and injured 100 more, in Louis Adamic, *Dynamite: The
Story of Class Violence in America* (New York: Viking, 1931).

¹⁰⁶ 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).

1 47. Because of the threats these new technologies posed for public safety,
2 public officials widened their regulatory focus beyond concealed and concealable
3 weapons. Thirteen states restricted the capacity of ammunition magazines for
4 semiautomatic and automatic firearms between 1927 and 1934,¹⁰⁷ and Congress
5 passed the National Firearms Acts of 1934 and 1938, which restricted ownership of
6 machine guns and submachine guns (known today as automatic weapons) because
7 of their ability to fire rapidly from large-capacity magazines.¹⁰⁸ And the Organized
8 Crime Control Act of 1970 restricted ownership of a wide range of explosives,
9 building upon regulations that began in 1917 with the passage of the Federal
10 Explosives Act, which restricted the distribution, storage, possession, and use of
11 explosive materials during the time of war.¹⁰⁹

12 48. Since 1970, public officials have continued to reserve the right to
13 regulate the sale, ownership, and control of new technologies that can be used by
14 individuals or small groups to commit mass murder. The Homeland Security Act
15 of 2002 improved security at airports and in cockpits to ensure that airplanes could
16 not be used by terrorists to commit mass murder. The Secure Handling of
17 Ammonium Nitrate Act of 2007 restricted access to large quantities of fertilizer to
18 prevent terrorist attacks like the one that killed 165 people in Oklahoma City in
19

20 ¹⁰⁷ Robert J. Spitzer, “Gun Accessories and the Second Amendment: Assault
21 Weapons, Magazines, and Silencers,” *Law and Contemporary Problems* 83 (2020):
22 238 (<https://scholarship.law.duke.edu/lcp/vol83/iss3/13>). In the same period,
23 five additional states restricted magazine capacity for fully automatic weapons, but
not semiautomatic weapons.

24 ¹⁰⁸ 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
25 (https://homicide.northwestern.edu/docs_fk/homicide/laws/national_firearms_act_of_1938.pdf).
26

27 ¹⁰⁹ The Organized Crime Control Act of 1970, 84 Statute 922; and the
28 Federal Explosives Act of 1917, 40 Statute 385.

1 1995.¹¹⁰ And in the wake of the massacre of 58 people and wounding of hundreds
2 of others at a concert in Las Vegas in 2017, the Trump administration issued a
3 regulation that banned the sale or possession of bump stocks. It gave owners 90
4 days to destroy their bump stocks or turn them in to the Bureau of Alcohol,
5 Tobacco, Firearms, and Explosives.¹¹¹

6 49. In recent decades, criminal organizations, terrorists, and lone gunmen
7 with an intent to commit mass murder have also discovered the effectiveness of
8 rapid-fire semiautomatic weapons with large capacity magazines. These weapons,
9 which were designed for offensive military applications rather than individual self-
10 defense, emerged from technologies developed for military use during the Cold
11 War, beginning with the Soviet AK-47 assault rifle, which was invented in 1947,
12 adopted by the Soviet Army in 1949, and used in the 1950s by the Soviets or their
13 allies during the Hungarian Revolution, the Vietnam War, and the Laotian Civil
14 War.¹¹² The signature military firearm of that era—the M-16 rifle with a 30-round
15 magazine and a muzzle velocity of over 3,000 feet per second¹¹³—was capable of
16 firing 750 to 900 rounds per minute when set on fully automatic.¹¹⁴ But the M-16

17 ¹¹⁰ Public Law 107-296, November 25, 2002, “To Establish the Department
18 of Homeland Security” (https://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf); and
19 6 U.S. Code § 488a - Regulation of the sale and transfer of ammonium nitrate
20 (<https://www.law.cornell.edu/uscode/text/6/chapter-1/subchapter-VIII/part-J>). The
21 ammonium nitrate regulations were to be enforced no later than 90 days after
22 December 26, 2007. Accessed Jan. 6, 2023.

23 ¹¹¹ *New York Times*, December 18, 2018
24 (<https://www.nytimes.com/2018/12/18/us/politics/trump-bump-stocks-ban.html>),
25 accessed Jan. 6, 2023.

26 ¹¹² Edward and Ezell, *The AK-47 Story: Evolution of the Kalashnikov*
27 *Weapons* (Harrisburg, Pennsylvania: Stackpole Books, 1986).

28 ¹¹³ Muzzle velocity is the speed at which a round exits the barrel of a firearm.

¹¹⁴ 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)

1 was used more often in combat—and more accurately, effectively, and sustainably
2 as a weapon for inflicting mass casualties—when set on semiautomatic, which was
3 standard military procedure. That is why the U.S. Army defines “rapid fire” as 45
4 rounds per minute (the rate of fire of an M-16 when set on semiautomatic), not 750
5 to 900.¹¹⁵ And that is why in 1998 the U.S. Marine Corps adopted the M-16A4,
6 which replaced the “fully automatic” switch with a three-round burst (but otherwise
7 the same weapon as the M-16)—an alteration that slows the potential rate of fire,
8 conserves ammunition, and improves accuracy.¹¹⁶ The civilian version of the M-
9 16—the ArmaLite AR-15—has approximately the same muzzle velocity as the M-
10 16 (3,300 feet per second) and the same rate of fire as the M-16 on semiautomatic:
11 45 rounds per minute.¹¹⁷

12 50. The muzzle velocity of semiautomatic handguns, like the Glock 17, is
13 far lower than that of an M-16 or its civilian counterparts: around 1,350 feet per
14 second. But technological advances have increased the speed at which
15 semiautomatic handguns can be fired. An expert can fire an entire 30-round clip
16 from a Glock 17 handgun in five seconds.¹¹⁸ And they are affordable. A new
17
18

19
20 ¹¹⁵ Sections 8-17 through 8-22 (Rates of Fire), Sections 8-23 and 8-24
21 (Follow Through), and Sections B-16 through B22 (Soft Tissue Penetration), in *TC*
22 *3-22.9 Rifle and Carbine Manual*, Headquarters, Department of the Army (May
23 2016). Available at the Army Publishing Directorate Site
24 (https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN19927_TC_3-22x9_C3_FINAL_WEB.pdf), accessed Jan. 6, 2023.

25 ¹¹⁶ See military-today.com (<http://www.military-today.com/firearms/ml6.htm>), accessed Jan. 6, 2023.

26 ¹¹⁷ See military-today.com (<http://www.military-today.com/firearms/ml6.htm>), accessed Jan. 6, 2023.

27 ¹¹⁸ See Jerry Miculek, “Dual Glock 17 Rapid Fire 60 Rounds in 5 Seconds!
28 660 RPM.” YouTube (<https://www.youtube.com/watch?v=1H5KsnoUBzs>),
accessed Jan. 6, 2023.

1 semiautomatic handgun can be purchased for less than \$200 and equipped with a
2 33-round magazine for less than \$15.¹¹⁹

3 51. It did not take criminals, terrorists, and lone gunmen long to adopt the
4 rapid-fire semiautomatic handguns and rifles with large capacity magazines that
5 arrived on the domestic market in the 1970s and 1980s. These firearms can inflict
6 mass casualties in a matter of seconds and maintain parity with law enforcement in
7 a standoff, which is why many police and sheriff departments across the United
8 States have purchased semiautomatic rifles and armored vehicles to defend
9 themselves and decrease the likelihood that officers are killed or wounded.¹²⁰

10 52. Manufacturers soon discovered ways to increase the rate of fire of
11 these new semiautomatic weapons even further. Some innovations, such as bump
12 stocks and modification kits, allowed owners to transform semiautomatic rifles into
13 fully automatic rifles. And in response to the Trump administration's regulatory
14 ban on the production and sale of bump stocks and modification kits, the firearms
15 industry has developed "binary" triggers that fire when pulled *and when released*—
16 a modification that doubles the rate at which semiautomatic weapons can be
17 fired.¹²¹

18 ¹¹⁹ See guns.com for the price of semiautomatic handguns
19 ([https://www.guns.com/firearms/handguns/semi-](https://www.guns.com/firearms/handguns/semi-auto?priceRange=Less%20than%20%24250)
20 [auto?priceRange=Less%20than%20%24250](https://www.guns.com/firearms/handguns/semi-auto?priceRange=Less%20than%20%24250)) and bymymags.com for the price of
21 large capacity magazines (<https://www.buymymags.com/>), accessed Jan. 6, 2023.

22 ¹²⁰ Sam Bieler, "Police Militarization in the USA: The State of the Field,"
23 *Policing: An International Journal* 39 (2016): 586-600, available at
24 [https://www.emerald.com/insight/content/doi/10.1108/PIJPSM-03-2016-](https://www.emerald.com/insight/content/doi/10.1108/PIJPSM-03-2016-0042/full/pdf?casa_token=TYUuIouUCc8AAAAA:IWXQRQOtW90KZ2AKwzHNMX2tfRix0zAxRRkjQSy3rA-uUpnylZrnp0Xolhj7UFIf05WGZkr_92L_QGk_OAxnSH-3h26oxKC4e7vM79VCBpFI9_cHg)
25 [0042/full/pdf?casa_token=TYUuIouUCc8AAAAA:IWXQRQOtW90KZ2AKwzH](https://www.emerald.com/insight/content/doi/10.1108/PIJPSM-03-2016-0042/full/pdf?casa_token=TYUuIouUCc8AAAAA:IWXQRQOtW90KZ2AKwzHNMX2tfRix0zAxRRkjQSy3rA-uUpnylZrnp0Xolhj7UFIf05WGZkr_92L_QGk_OAxnSH-3h26oxKC4e7vM79VCBpFI9_cHg)
26 [NMX2tfRix0zAxRRkjQSy3rA-](https://www.emerald.com/insight/content/doi/10.1108/PIJPSM-03-2016-0042/full/pdf?casa_token=TYUuIouUCc8AAAAA:IWXQRQOtW90KZ2AKwzHNMX2tfRix0zAxRRkjQSy3rA-uUpnylZrnp0Xolhj7UFIf05WGZkr_92L_QGk_OAxnSH-3h26oxKC4e7vM79VCBpFI9_cHg)
27 [uUpnylZrnp0Xolhj7UFIf05WGZkr_92L_QGk_OAxnSH-](https://www.emerald.com/insight/content/doi/10.1108/PIJPSM-03-2016-0042/full/pdf?casa_token=TYUuIouUCc8AAAAA:IWXQRQOtW90KZ2AKwzHNMX2tfRix0zAxRRkjQSy3rA-uUpnylZrnp0Xolhj7UFIf05WGZkr_92L_QGk_OAxnSH-3h26oxKC4e7vM79VCBpFI9_cHg)
28 [3h26oxKC4e7vM79VCBpFI9_cHg](https://www.emerald.com/insight/content/doi/10.1108/PIJPSM-03-2016-0042/full/pdf?casa_token=TYUuIouUCc8AAAAA:IWXQRQOtW90KZ2AKwzHNMX2tfRix0zAxRRkjQSy3rA-uUpnylZrnp0Xolhj7UFIf05WGZkr_92L_QGk_OAxnSH-3h26oxKC4e7vM79VCBpFI9_cHg), accessed Jan. 6, 2023.

¹²¹ 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-ffls-mar-2022-open-letter-forced-](https://www.atf.gov/firearms/docs/open-letter/all-ffls-mar-2022-open-letter-forced-reset-triggers-frts/download)
reset-triggers-frts/download), accessed Jan. 6, 2023. The ATF has not banned the

53. 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.¹²²

54. The threat to public safety and law enforcement posed by semiautomatic rifles—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 shootings from 1966 to the present (see Figure 1, below).

Figure 1

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 Jan. 6, 2023. See also americanfirearms.org, “A Complete Guide to Binary Triggers,” (<https://www.americanfirearms.org/guide-to-binary-triggers/>), accessed Jan. 6, 2023.

¹²² See “Rapid Manual Trigger Manipulation (Rubber Band Assisted),” YouTube (https://www.youtube.com/watch?v=PVfwFP_RwTQ), accessed Jan. 6, 2023.

	Mass shootings with non-semiautomatic/non-automatic firearm	Mass shootings with semiautomatic handgun	Mass shootings with semiautomatic rifle	Mass shootings with automatic firearms
Average Killed	5.4	6.5	9.2	8.1
Average Wounded	3.9	5.8	11.0	8.1
Average Victims	9.3	12.3	20.2	16.2
Number of Mass Shootings	52	82	40	8

Note that mass shootings with semiautomatic rifles have been as deadly as mass shootings with fully automatic weapons.¹²³

¹²³ The data are from the Violence Project (<https://www.theviolenceproject.org/mass-shooter-database/>), accessed Jan. 6, 2023. 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).” The Violence Project database provides information on the weapons used in the shootings. It notes, for instance, that two shooters who possessed semiautomatic rifles at the times of their crimes did not use them, and that 8 shooters had illegal, fully automatic weapons. Those automatic weapons included 2 Uzi submachine guns, 3 machine pistols, 1 M-16, and 2 AK-47 rifles converted to automatic. I have not participated in Violence Project or in the collection of their data. In Figure 1, however, I have added the data from the six mass shootings that occurred from January through August, 2022, that fit the Violence Project’s definition of a mass shooting. Three were committed with semiautomatic rifles and three with semiautomatic handguns. The table does not include the Las Vegas shooting of 2017 (58 killed, 887 wounded).

55. And the threat posed by semiautomatic rifles is amplified when they are used in conjunction with extended magazines (more than 10 rounds) (see figure 2, below).

Figure 2

	No extended magazine	Extended magazine
Mass shootings with semiautomatic handgun	10.3	26.4
Mass shootings with semiautomatic rifle	13.0	37.1

56. Without extended magazines, semiautomatic rifles cause an average of 40 percent more deaths and injuries in mass shootings than regular firearms, and 26 percent more than semiautomatic handguns. But with extended magazines, semiautomatic rifles cause an average of 299 percent more deaths and injuries than regular firearms, and 41 percent more than semiautomatic handguns. And extended magazines are two-and-a-half times more likely to be used in mass shootings with semiautomatic rifles than with semiautomatic handguns: in 30 percent versus 12 percent of incidents. Semiautomatic rifles and extended magazines are deadly on their own. But in combination, they are extraordinarily lethal.¹²⁴

57. The data in Figures 1 and 2, and in the immediately above paragraph, are from the Violence Project.¹²⁵ The Violence Project, which has compiled data

¹²⁴ The data are from the Violence Project.

¹²⁵ The Violence Project (<https://www.theviolenceproject.org/mass-shooter-database/>), accessed Jan. 6, 2023. The Violence Project database provides information on the weapons used in the shootings. It notes, for instance, that two shooters who possessed semiautomatic rifles at the times of their crimes did not use them, and that 8 shooters had illegal, fully automatic weapons. Those automatic weapons included 2 Uzi submachine guns, 3 machine pistols, 1 M-16, and 2 AK-47 rifles converted to automatic. I have not participated in Violence Project or in the collection of their data. In Figure 1, however, I have added the data from the six mass shootings that occurred from January through August, 2022, not yet included in the Violence Project's data, that fit the Violence Project's definition of a mass

1 on mass shootings from 1966 through 2021, defines a mass shooting as “a multiple
2 homicide incident in which four or more victims are murdered with firearms—not
3 including the offender(s)—within one event, and at least some of the murders
4 occurred in a public location or locations in close geographical proximity (e.g., a
5 workplace, school, restaurant, or other public settings), and the murders are not
6 attributable to any other underlying criminal activity or commonplace circumstance
7 (armed robbery, criminal competition, insurance fraud, argument, or romantic
8 triangle).” Other authorities have adopted similar definitions of “mass shootings”
9 and “mass murder.” For example, the FBI has defined mass murder as “a number
10 of murders (four or more) occurring during the same incident, with no distinctive
11 time period between the murderers.”¹²⁶ Federal legislation enacted in 2013
12 authorized the Attorney General to assist in the investigation of mass killings,
13 defined to mean “3 or more killings in a single incident.”¹²⁷

14 58. What is remarkable about the mass shootings that have plagued the
15 United States since 1965 is that all but four involved a lone shooter, and those that
16 have involved more than one assailant have involved only two: in 1998 in
17 Jonesboro, Kentucky; in 1999 in Littleton, Colorado; in 2015 in San Bernardino,
18 California; and in 2019 in Jersey City, New Jersey. In the nineteenth and early

19 _____
20 shooting: the Buffalo, New York, supermarket shooting on May 14; the Robb
21 Elementary School shooting in Uvalde, Texas, on May 24; the Tulsa, Oklahoma
22 medical center shooting on June 1; the concrete company shooting in Smithsburg,
23 Maryland, on June 9; the Highland Park, Illinois, Fourth of July Parade shooting;
24 and the Greenwood, Indiana, Park Mall shooting on July 17. Three were
25 committed with semiautomatic rifles and three with semiautomatic handguns. The
table in this declaration, unlike the tables in the Violence Project, does not include
the Las Vegas shooting of 2017 (58 killed, 887 wounded). The Las Vegas shooting
is an outlier in the number killed and wounded which would skew the results of the
analysis.

26 ¹²⁶ FBI, *Serial Murder: Multi-Disciplinary Perspectives for Investigators* at 8
27 (2005) (<https://www.fbi.gov/stats-services/publications/serial-murder#two>),
accessed Jan. 6, 2023.

28 ¹²⁷ 28 U.S.C. § 530C(b)(1)(M).

1 twentieth centuries, it required scores of individuals to gather together as mobs,
2 rioters, vigilantes, or terrorists to kill or wound dozens of people in a short space of
3 time—generally because of their race, ethnicity, or faith.

4 59. Today, thanks especially to extended magazines and certain classes of
5 semiautomatic firearms, it requires only one or two individuals to kill or wound that
6 many people. And because of these modern technologies, which were developed for
7 warfare, angry, alienated individuals can commit mass murder for reasons that are
8 simply personal. Mass murderers no longer require collaborators to rally to a cause.
9 For example, they can kill large numbers of people simply because they feel
10 slighted at school, because they don't get along with their coworkers, because they
11 were rejected romantically, or because they simply want to make a name for
12 themselves. And since it is impossible in our society—indeed, in any society—to
13 ensure that no one is angry or alienated, restricting access to extended magazines
14 and certain classes of semiautomatic firearms mitigates the risk to every American.

15 60. For these reasons, local governments have enacted bans on the sale of
16 semiautomatic rifles with features that enhance their military utility, as the federal
17 government did from 1994 to 2004. And local governments have banned the sale
18 of large capacity magazines, because they allow mass murderers to prolong their
19 attacks before citizens or law enforcement can intervene—usually when the shooter
20 is reloading. For example, the shooter who wounded U.S. House Representative
21 Gabby Giffords in Tucson, Arizona, in 2011 was able to fire 31 rounds with a
22 Glock 19 semiautomatic handgun in a matter of seconds before bystanders could
23 disarm him as he changed magazines. Every one of those rounds hit an individual,
24 killing six and injuring twelve.¹²⁸

25
26
27 ¹²⁸ “2011 Tucson Shooting,” Wikipedia
28 (https://en.wikipedia.org/wiki/2011_Tucson_shooting), accessed Jan. 6, 2023.

V. CONCLUSION

61. 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.

Executed on January 6, 2023 at Dublin, Ohio.



Randolph Roth

EXHIBIT A

Randolph Roth

Page 1

Curriculum Vitae

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Personal

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

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, for an outstanding book in social science history

2010, Outstanding Academic Books, *Choice*

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1988, E. Harold Hugo Memorial Book Prize, Old Sturbridge Village Research Society, for distinguished work in the history of rural society

1982, Thorton 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 Birdsdall 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)

1992, Fellow, Workshop on the Rhetoric of Social History, University of Iowa

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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

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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

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“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*

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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 Metaphor of Social Science History," *Social Science History* (1992) 16: 197-243.

"Ecological Regression and the Analysis of Voter Behavior," *Historical Methods*

Randolph Roth

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(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

"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 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.

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“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

“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,

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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, 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

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"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, 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

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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 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

“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

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“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,” 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

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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).

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).

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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).

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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).

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*

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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

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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

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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 Hertzner, “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.

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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.

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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

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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

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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

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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

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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

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(<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 WEAA 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 WEAA 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

EXHIBIT 58

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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 **STEVEN RUPP; STEVEN**
16 **DEMBER; CHERYL JOHNSON;**
17 **MICHAEL JONES;**
18 **CHRISTOPHER SEIFERT;**
19 **ALFONSO VALENCIA; TROY**
20 **WILLIS; and CALIFORNIA RIFLE**
21 **& PISTOL ASSOCIATION,**
22 **INCORPORATED,**

23 Plaintiffs,

24 v.

25 **ROB BONTA, in his official capacity**
26 **as Attorney General of the State of**
27 **California; and DOES 1-10,**

28 Defendants.

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL SUR-
REBUTTAL EXPERT REPORT
AND DECLARATION OF
RANDOLPH ROTH**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the Attorney General of the State of California. Pursuant to Federal Rule of Civil Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as the defendant in this case.

**SUPPLEMENTAL SUR-REBUTTAL EXPERT REPORT AND
DECLARATION OF RANDOLPH ROTH**

I, Randolph Roth, declare under penalty of perjury that the following is true and correct:

1. I am a College of Arts and Sciences Distinguished Professor of History and Sociology at The Ohio State University. I previously submitted a supplemental expert report and declaration dated January 6, 2023, in the above-captioned case. My professional qualifications are set forth in that Supplemental Expert Report and Declaration.²

2. I have been asked by the Office of the Attorney General of California to respond to Clayton Cramer's rebuttal report, dated February 3, 2023. I will respond point by point.

3. This supplemental sur-rebuttal expert report and declaration is based on my own personal knowledge and experience, and, if I am called as a witness, I could and would testify competently to the truth of the matters discussed in it.

A. On the extent of firearms ownership in the early republic.

4. Cramer's attempts to establish that firearms ownership was more ubiquitous than the 50 to 60 percent ownership cited in my declaration are not well supported.³ Cramer does not cite the study that is the gold standard, on which my declaration is based: Alice Hanson Jones' sophisticated and mathematically rigorous clustered random sample of state and county probate records in 1774-

² Since my Supplemental Expert Report in this matter, I have been retained as an expert witness in the follow cases, in addition to those listed in my Supplemental Expert Report: *Association Of New Jersey Rifle and Pistol Clubs v. Platkin*, No. 3:18-cv-10507 (D.N.J.); *Cheeseman v. Platkin*, No. 7-:22-cv-04360 (D.N.J.); *Ellman v. Platkin*, No. 3:22-cv-04397 (D.N.J.); *Oregon Firearms Federation, et al. v. Brown and Roseblum*, No. 2:22-cv-01815-IM (D.OR.); *National Association for Gun Rights v. Brown*, No 22-cv-00404-DKW-RT (D.HI.); and *National Association for Gun Rights v. Lamont*, No. 3:22-cv-01118 (D.CT.).

³ Clayton Cramer, Supplemental Rebuttal Report, 1-5; and see Randolph Roth Supp. Report, ¶ 15 & n. 9.

1 1775.⁴ Jones stratified her sample to ensure that poorer residents, whose estates
2 were less likely to go through probate, were weighted to reflect their representation
3 in the population. Her data show, as we might anticipate, that firearms ownership
4 was not distributed randomly. Male heads of households were more likely to own
5 firearms than female heads of households, and the wealthy more likely than the
6 poor. Also, firearms ownership was most common among household heads in the
7 Southern colonies, where fears of slave rebellion were most intense, and in New
8 England, where the inhabitants had been in a nearly perpetual state of war from
9 1689 through 1760 with the French and their native allies over control of northern
10 New England and the Maritimes. Firearms ownership was lowest in the Middle
11 Colonies, where Quakers and German pietists comprised a substantial minority of
12 the population.

13 Percent who owned guns

14 Males	52%
15 Females	18%
16 Wealthiest fifth	76%
17 Middle three-fifths	54%
18 Poorest fifth	32%
19 New England	50%
20 Middle colonies	41%
21 Southern colonies	69%

22
23
24 ⁴ Alice Hanson Jones, *Wealth of a Nation to Be: The American Colonies on*
25 *the Eve of the Revolution* (New York: Columbia University Press, 1980); Jones,
26 *American Colonial Wealth: Documents and Methods*, 3 v. (New York: Arno Press,
27 1977); Jones, "Estimating Wealth of the Living from a Probate Sample," *Journal of*
28 *Interdisciplinary History* 13 (1982): 273-300; and Randolph Roth, "Guns, Murder,
and Probability: How Can We Decide Which Figures to Trust?" *Reviews in*
American History 35 (2007): 166-168.

5. Firearms historian Kevin Sweeney reached similar conclusions as Jones. Sweeney, like Jones, studied statistics at the graduate level and has a keen understanding of the complexity of interpreting sources from the past. He examined 4,777 probated estates from 1633 through 1800 and widened the range of our knowledge of firearms ownership to the entire colonial and Revolutionary period.⁵ He discovered, like Jones, that firearms ownership was common, but far from universal as Cramer claims from his limited, unsystematic research. Sweeney found that firearms ownership held fairly steady from the 1630s down to the eve of the Revolution, and he confirmed the regional differences that Jones found. Firearms ownership was highest in the South and lowest in Pennsylvania and New Jersey.

% probated estates
with firearms, 1770-1775

New England	51
New York	49
Pennsylvania / New Jersey	38
Chesapeake	63
South Carolina	71

6. Sweeney also found differences in firearms ownership by wealth, 1740-1750.

Wealthy

£250+ 67

Middling

£100-249 58
£50-99 54

⁵ Kevin Sweeney, "Firearms Ownership and Militias in Seventeenth and Eighteenth Century England and America," 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), 54-71.

1	Lower	
2	£25-49	46
3	£10-24	41
4	Poor	
5	£0-9	26

7. There are uncertainties in our profession's estimates of firearms ownership, as there are in any scholarly endeavor. Scholars have reflected thoughtfully on the reasons why probate records might lead us to understate or overstate the proportion of households that owned a working gun. But our knowledge of firearms ownership in the colonial and revolutionary period is well-informed, critical, and statistically sophisticated, thanks to Jones and Sweeney. That is why our profession believes the figure of 50 to 60 percent of all households is right. That is not gun ubiquity. But it is certainly not "gun scarcity," a phrase that misstates our profession's understanding of gun ownership in early America.

8. Cramer attempts to question my findings with respect to firearms ownership by falsely associating it with the widely discredited research of Michael Bellesiles on the same issue.⁶ My declaration does not rely on Bellesiles' research or even reach the same general conclusions about the incident of firearms ownership. Cramer does not mention my essay in the special issue of the *William and Mary Quarterly* that, together with the essay he cites from that issue by Gloria Main, debunked the false claim by Michael Bellesiles, *Arming America*, that gun ownership was scarce in early America.⁷ I was at the forefront in our profession in calling Bellesiles to account because I knew from my work and the work of my

⁶ Clayton Cramer, Supplemental Rebuttal Report, 1.

⁷ Randolph Roth, "Guns, Gun Culture, and Homicide: The Relationship between Firearms, the Uses of Firearms, and Interpersonal Violence in Early America," *William and Mary Quarterly*, 3rd series, 59 (2002): 223-240.

1 colleagues that gun ownership was *not* scarce in early America, going back to John
2 Hope Franklin's classic *The Militant South*.⁸ I discussed the work of Alice Hanson
3 Jones in my *William and Mary Quarterly* essay, which notes every statistic from
4 Jones' study that I included in my original declaration and have included in this
5 supplementary declaration.⁹ Gloria Main also discussed Jones' study in the essay
6 that Cramer cites.¹⁰

7 **B. On the limitations of muzzle loading firearms as weapons for**
8 **committing mass murder.**

9 9. Cramer acknowledges the most important conclusion of my
10 declaration: that a single individual could not kill or wound a large number of
11 persons in a matter of minutes or seconds with a single-shot, muzzle loading
12 firearm.¹¹ The mass murder that he cites from Madison County, Indiana, in 1824
13 proves that point: it required seven men equipped with muzzle-loaders to kill three
14 unsuspecting Native men whom they had lured to the scene on false pretenses. In
15 the slaughter that ensued, with firearms and other weapons, the seven men were
16 together able to butcher ten Native women and children.

17 10. But Cramer's claim that axes, clubs, and knives can kill or wound are
18 effective tools for committing mass murder is misleading.¹² The Native man who
19 went on a rampage with an axe at a trading post in Wethersfield, Connecticut, in
20 1686 could kill only two adults and wound another before he was stopped. The two
21 club-wielding robbers in Washington, Connecticut, in 1780, managed to kill only
22 two adults. The other three victims were children. The husband who attacked his
23

24 ⁸ John Hope Franklin, *The Militant South, 1800-1861* (Cambridge: The
25 Belknap Press of Harvard University Press, 1956).

26 ⁹ Roth, "Guns, Gun Culture, and Homicide," 226-227.

27 ¹⁰ Gloria Main, "Many Things Forgotten: The Use of Probate Records in
28 Arming America," *William and Mary Quarterly*, 3rd series, 59 (2002): 213n3.

¹¹ Clayton Cramer, Supplemental Rebuttal Report, 4.

¹² Clayton Cramer, Supplemental Rebuttal Report, 4-6.

1 family with an axe in Clarksburg, Virginia, in 1805 killed only one adult, his wife.
2 His other eight victims were his children. And the husband who attacked his family
3 with a knife in Hallowell, Maine, in 1806 killed only one adult, his wife. His other
4 7 victims were his children. Cramer's evidence does not show that edged and blunt
5 weapons are effective tools for committing mass murder. It shows instead that
6 infants and children are not capable of defending themselves against attacks by
7 adults.¹³ That conclusion is consistent with the extensive literature in contemporary
8 criminology that shows that young children are killed in the overwhelming majority
9 of cases with weapons other than firearms, because adults can kill children so easily
10 with physical force or everyday household objects.¹⁴

11 11. Recent events also demonstrate the ineffectiveness of edged weapons
12 for committing mass murder as compared to firearms. In our own time, terrorists
13 have tried on a number of occasions to commit mass murder in the United States
14 and Europe with an edged weapon, but they have *never* been able to kill a large
15 number of people before they were restrained or killed. Consider, for instance, the
16 terrorist attack at Ohio State University in November 2016, in which a terrorist, a
17 suicidal Somali undergraduate who was failing all of his courses, rammed his car
18 into a crowd of pedestrians and attacked everyone within his reach with a butcher
19 knife.¹⁵ He wounded five people, but he failed to kill anyone, because students and
20 staff fought, fled, and dialed 911. Campus Police Officer Alan Horjuko rushed to
21 the scene, jumped out of his patrol car, and shot the individual dead within a
22

23 ¹³ For an excellent and rigorously researched study of familicides in the early
24 republic, and of the use of weapons other than firearms to kill large numbers of
25 children, see Daniel A. Cohen, "Homicidal Compulsion and the Conditions of
26 Freedom: The Social and Psychological Origins of Familicide in America's Early
27 Republic." *Journal of Social History* 28 (1995): 725-764.

28 ¹⁴ See Richard M. Hough and Kimberly D. McCorkle, *American Homicide*
(Los Angeles: Sage, 2017), 94-96, and the references cited there.

¹⁵ New York Times, November 28, 2016.
<https://www.nytimes.com/2016/11/28/us/active-shooter-ohio-state-university.html>

1 minute. Had that terrorist been armed with a semiautomatic firearm with an
2 extended magazine (as has occurred in other terrorist attacks on U.S. soil), many
3 more Buckeyes would have been at risk of being killed or wounded, and Officer
4 Horjuko would have been in mortal danger when he pulled up. But because that
5 individual was armed only with a knife, Officer Horjuko, the lone officer on the
6 scene, had time to get out of his car, pull his weapon, assess the situation, order the
7 attacker to halt, and open fire, reluctantly, from a safe distance when he refused to
8 comply.

9 12. We can see the same dynamic in the terrorist attack in Times Square
10 on New Year's Eve, 2022. Another terrorist traveled from Maine to New York City
11 "to kill people and carry out jihad" with a knife, but he failed to kill anyone, and he
12 was subdued almost instantly by the three police officers he wounded.¹⁶ Simply put,
13 incidents in which large numbers of adults are killed with an edged weapon are
14 vanishingly rare.¹⁷

15 13. Cramer accepts my conclusion that homicide was rare in the early
16 national era in settled areas in the North and Mountain South, and he does not rebut
17 my conclusions about the pattern of weapon use in early America, which shows
18 why muzzle-loading firearms were not commonly used in interpersonal homicides.
19 Because they were kept unloaded in most households, and because it took time to
20 load them, impulsive homicides, like family and household homicides, were almost
21 never committed with a firearm—always less than 10 to 15 percent. Impulsive

22 ¹⁶ New York Times, January 10, 2023.
23 [https://www.nytimes.com/2023/01/10/nyregion/trevor-bickford-federal-terror-](https://www.nytimes.com/2023/01/10/nyregion/trevor-bickford-federal-terror-charges.html)
24 [charges.html](https://www.nytimes.com/2023/01/10/nyregion/trevor-bickford-federal-terror-charges.html)

25 ¹⁷ One example would be the stabbings committed against residents of the
26 James Smith Cree Nation and of Weldon, Saskatchewan, Canada, on September 4,
27 2022, by two brothers. They killed ten adults and wounded eighteen others at
28 thirteen separate locations, so they never confronted more than a handful of victims
at any one time during their attacks.

https://en.wikipedia.org/wiki/2022_Saskatchewan_stabbings

1 homicides with muzzle-loading firearms occurred almost exclusively when people
2 were armed for another purpose, such as hunting or militia training. And that is why
3 firearms use in homicides outside the household rose and fell with the homicide rate
4 in the colonial and early national period. When and where the homicide rate was
5 high, people were more likely to anticipate gunfights and go about armed with
6 loaded firearms.¹⁸ When and where the homicide rate was low, few people carried
7 loaded firearms to defend themselves against a potential assault by another
8 person.¹⁹

9 14. Cramer states that New England's homicide rate was low in the early
10 national era because of the region's "religious values."²⁰ My colleagues and I have
11 discovered, however, that the homicide rate was high in New England in the early
12 and mid-seventeenth century, when Puritans held sway, and disastrous in the 1630s,
13 when the homicide rate was 120 per 100,000 persons per year.²¹ And homicide
14 rates soared in slave South in the years after the Revolution, despite the depth of
15 religious belief and commitment among people in the slave South, both black and
16 white.²²

17
18
19 ¹⁸ When homicide rates were high, states regulated the weapons used in those
20 crimes. Most impulsive homicides and opportunistic crimes during this period
21 were committed with concealable weapons, like pistols, folding knives, dirks, and
22 Bowie knives, which were regulated at that time.

23 ¹⁹ Randolph Roth, "Why Guns Are and Aren't the Problem: The Relationship
24 between Guns and Homicide in American History," in Jennifer Tucker, Barton C.
25 Hacker, and Margaret Vining, eds., *A Right to Bear Arms? The Contested Role of
26 History in Contemporary Debates on the Second Amendment* (Washington, D.C.:
27 Smithsonian Institution Scholarly Press, 2019), 113-133.

28 ²⁰ Clayton Cramer, Supplemental Rebuttal Report, 4.

²¹ Randolph Roth, *American Homicide* (Cambridge: The Belknap Press of
Harvard University Press, 2009), 37-60.

²² For example, Donald G. Mathews, *Religion in the Old South* (Chicago:
University of Chicago Press, 1977); and Albert J. Raboteau, *Slave Religion: The
"Invisible Institution" in the Antebellum South* (New York: Oxford University
Press, 1978).

1 15. Cramer's discussion of early firearms technology does not, I believe,
2 contradict the fact that muzzle-loading weapons had limitations as weapons for
3 committing murder, especially mass murder by a lone individual. I have never
4 claimed that muzzle loading weapons were never kept loaded, especially on the
5 frontier. They could not, however, be kept loaded for an extended period of time,
6 and if they were loaded, they had to be stored in the driest place in the house to
7 prevent corrosion. That is consistent with the findings of my research on homicides:
8 that muzzle-loading firearms were seldom used impulsively in homicides,
9 especially in the household, and regularly used by colonists who, with loaded guns,
10 anticipating conflict or with homicidal intent, killed Native Americans, runaway
11 slaves, or political adversaries.

12 **C. California's gun laws.**

13 16. Cramer's claim that racism has been the fundamental and enduring
14 motivation for California's firearms laws is unsupported. Ownership and open carry
15 of firearms was *never* denied to any resident of California on the basis of race,
16 ethnicity, or citizenship status prior to 1923, and *never* denied to a citizen after the
17 1923 law was passed. There is no question that some of our nation's firearms
18 regulations, especially from the colonial era through the Civil War, sought to
19 disarm citizens because of their race or ethnicity. It is important, however, to place
20 California's first firearms laws in their proper historical context: the 1853 law
21 which increased the penalty for carrying firearms with hostile intent, the 1855 law
22 which increased the penalty for brandishing a firearm in a threatening manner, and
23 the 1863 law which banned the carrying of concealed weapons altogether. Those
24 laws were not aimed at a particular racial or ethnic group. They represented a step-
25 by-step effort by the legislature to address the state's high rate of violent crime—
26 crimes that were committed overwhelmingly by Californians of European ancestry.

27 17. First, the 1849 constitutional convention. California's constitutional
28 convention declined to enact an unrestricted right to the private use, ownership, or

1 possession of firearms, just as Congress did on September 25, 1789, when it
2 adopted what would become the Second Amendment. California's convention did
3 so—as the delegate who spoke about the need to regulate concealed weapons
4 acknowledged—because the delegates believed that private use of firearms had to
5 be regulated at times by statute. The same debate took place at the time the Second
6 Amendment was adopted, as Saul Cornell discovered, with the same result. There
7 were powerful voices in 1789, including Thomas Jefferson, who advocated for an
8 unrestricted private right, but they were outvoted in Congress and in the ratifying
9 legislatures because of concerns not only about the right of free black citizens to
10 use and own firearms, but about mundane matters such as hunting laws. And those
11 laws were soon followed in the early republic by state-level bans on the carrying of
12 concealed weapons. The right to bear arms in military service in a well-regulated
13 militia, organized and governed by the state, was not to be infringed. But private
14 use, ownership, and possession were subject to reasonable statutory limitations if
15 the people and their representatives deemed limitations necessary.²³ California's
16 constitutional convention followed suit, and as Cramer acknowledges, there was no
17 mention during the debate over firearms in California's constitutional convention of
18 race, nor any mention of disarming people of color.

19 18. Second, the 1853 law against carrying weapons with intent to assault.
20 California's legislature did not mention race in the law it passed in 1853 to enhance
21 the sentence for any person who carried a firearm, knife, bludgeon, or any other
22 weapon with the intent to assault another person. The penalty was up to three
23 months in prison and a hundred dollar fine.²⁴

24 ²³ Saul Cornell, *A Well-Regulated Militia: The Founding Fathers and the*
25 *Origins of Gun Control in America* (New York: Oxford University Press, 2006),
26 39-70.

27 ²⁴ S. Garfield, *Compiled Laws of the State of California: Containing All the*
28 *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

1 19. Third, the 1855 law against brandishing weapons. California's
2 legislature did not mention race in the law it passed in 1855 to enhance the sentence
3 for any person who drew a deadly weapon, including a gun or pistol, "in a rude,
4 angry and threatening manner, not in necessary self-defense," against another
5 person or persons. The penalty was up to six months in prison and a five hundred
6 dollar fine.²⁵

7
8 Independence, the Constitutions of the United States and of California, the Treaty
9 of Queretaro, and the Naturalization Laws of the United States (1853), 663-664.
10 [https://firearmslaw.duke.edu/laws/s-garfielde-compiled-laws-of-the-state-of-](https://firearmslaw.duke.edu/laws/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-p/)
11 [california-containing-all-the-acts-of-the-legislature-of-a-public-and-general-nature-](https://firearmslaw.duke.edu/laws/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-p/)
12 [now-in-force-passed-at-the-sessions-of-1850-51-52-53-to-which-are-p/](https://firearmslaw.duke.edu/laws/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-p/). "Compiled
13 Laws of California, § 127. If any person shall be found having upon him or her any
14 picklock, crow, key, bitt, or other instrument or tool, with intent feloniously to
15 break and enter into any dwelling house, store, shop, warehouse, or other building
16 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."

17 ²⁵ William H. R. Wood, Digest of the Laws of California: Containing All
18 Laws of a General Character Which were in Force on the First Day of January,
19 1858; . . . Together with Judicial Decisions, Both of the Supreme Court of the
20 United States and of California, to Which are Also Appended Numerous Forms for
21 Obtaining Pre-Emption and Bounty Lands, Etc., Etc. (1861), 334. "Crimes and
22 Punishments, Art. 1904. That any person in this state having, carrying or procuring
23 from another person any dirk, dirk-knife, bowie-knife, sword, sword-cane, pistol,
24 gun or other deadly weapon, who shall, in the presence of two or more persons,
25 draw or exhibit any of said deadly weapons in a rude, angry and threatening
26 manner, not in necessary self-defense, or who shall, in any manner, unlawfully use
27 the same, in any fight or quarrel, the person or persons so offending, upon
28 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."

20. Fourth, the 1863 law against carrying concealed weapons. Cramer quotes a senator from Nevada County, from a debate in 1856, who wanted to disarm Hispanics. But Cramer acknowledges that race and ethnicity were not on the minds of legislators when they banned concealed weapons in 1863, using language similar to the concealed carry laws in other states.²⁶

21. The legislature's desperation to do something about violence, including gun violence, is not surprising, not simply because California's homicide rate was at least 65 per 100,000 adults per year in the nine counties studied to date, but because of the high rate of violence by and among Californians of European ancestry. As the table below shows (based on the research of Eric Monkkonen, Clare McKanna, and Kevin Mullen),²⁷ the intra-racial homicide rate of European

²⁶ 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* (1868). "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."

<https://firearmslaw.duke.edu/laws/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/>

²⁷ Eric Monkkonen, "Los Angeles Homicides, 1830-2001 [computer file]" (Los Angeles: University of California at Los Angeles, 2005); Clare V. McKanna, Jr., *Homicide, Race, and Justice in the American West, 1880-1920* (Tucson: University of Arizona Press, 1997); and Kevin J. Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (New

Americans—37 per 100,000 adults per year—was lower only than the intra-racial homicide rate of Hispanic Americans—72 per 100,000. And when it came to interracial homicides, people of color came nowhere close to killing European Americans at the rates at which European Americans killed people of color: 13 per 100,000 per year versus 0 for Asian Americans, 30 versus 0 for African Americans, 24 versus 1 for Native Americans, and 27 versus 5 for Hispanic Americans. And European Americans were least likely, along with African Americans, to be murdered by an unknown assailant.²⁸

Intra-racial and Interracial Homicide Rates among Unrelated Adults in California, 1849-1865 per 100,000 persons ages 16 and older per year

	Assailants						% Interracial
	Asian	B	H	NA	W	Unknown Race	
Victims							
Asian	26	0	7	2	13	12	.56
Black	0	31	8	4	30	8	.61
Hispanic	1	1	72	7	54	27	.55
Native American	0	0	17	25	8	24	.66
Non-Hispanic White	0	0	5	1	37	8	.28

22. It should be noted that guns were used in at least half of California homicides.²⁹ The weight of evidence, including the quotations from contemporary

York: Palgrave Macmillan, 2005). Their data are available at <https://cjrc.osu.edu/research/interdisciplinary/hvd/united-states>. See also John Mack Faragher, *Eternity Street: Violence and Justice in Frontier Los Angeles* (New York: W. W. Norton, 2016), whose data are available on the same site; and Randolph Roth, Michael D. Maltz, and Douglas L. Eckberg, “Homicide Rates in the Old West,” *Western Historical Quarterly* 42 (2011): 183-184.

²⁸ Randolph Roth, *American Homicide Supplemental Volume: American Homicides*, Table 33, available at <https://cjrc.osu.edu/sites/cjrc.osu.edu/files/AHSV-American-Homicides-5-2010.pdf>

²⁹ Randolph Roth, *American Homicide Supplemental Volume: Weapons*,

1 newspapers that Cramer cites in his essay on the subject³⁰ and that I included in my
2 Supplemental Expert Report, suggests that the California legislature was concerned
3 with all gun violence, not just gun violence by people of color.

4 23. And finally, the laws of 1917 and 1923. The state of the art in our
5 profession for studying conceal carry laws and licensing laws is to examine not
6 only their language, which had to be race neutral after the passage of the Fourteenth
7 Amendment, but how they were enforced, in the way that Brennan Rivas does in
8 her model studies of firearms laws in the South after the Civil War. Rivas has
9 shown, surprisingly, that conceal carry laws were enforced in the South against
10 both blacks and whites, even after white supremacists regained control at the end of
11 Reconstruction.³¹ We must remember that in many rural counties in California in
12 the early twentieth century, wealthy and middle-class Hispanics retained
13 considerable political power and influence within their communities, which might
14 have blunted the effort to deny Hispanics wholesale the licenses they needed to
15 carry concealed weapons. And that was all the more true in the mid-nineteenth
16 century in rural counties in southern California and throughout the Southwest,
17 where Hispanic residents often formed the majority and Hispanic elites fought
18

19 Tables W58 to W64, available at [https://cjrc.osu.edu/sites/cjrc.osu.edu/files/AHSV-](https://cjrc.osu.edu/sites/cjrc.osu.edu/files/AHSV-Weapons-10-2009.pdf)
20 [Weapons-10-2009.pdf](https://cjrc.osu.edu/sites/cjrc.osu.edu/files/AHSV-Weapons-10-2009.pdf)

21 ³⁰ Clayton E. Cramer and Joseph Olson, "The Racist Origins of California's
22 Concealed Weapon Permit Law," Social Science Research Network, posted August
23 12, 2016, 6-7 (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2599851).

24 ³¹ Brennan Gardner Rivas, "The Deadly Weapon Laws of Texas: Regulating
25 Guns, Knives, and Knuckles in the Lone Star State, 1836-1930 (Ph. D. dissertation:
26 Texas Christian University, 2019), available at
27 <https://repository.tcu.edu/handle/116099117/26778>; Rivas, Enforcement of Public
28 Carry Restrictions: Texas as a Case Study," *UC Davis Law Review* 55 (2021):
2603-2624; and 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-](https://firearmslaw.duke.edu/2022/01/the-problem-with-assumptions-reassessing-the-historical-gun-policies-of-arkansas-and-tennessee/)
[with-assumptions-reassessing-the-historical-gun-policies-of-arkansas-and-](https://firearmslaw.duke.edu/2022/01/the-problem-with-assumptions-reassessing-the-historical-gun-policies-of-arkansas-and-tennessee/)
[tennessee/](https://firearmslaw.duke.edu/2022/01/the-problem-with-assumptions-reassessing-the-historical-gun-policies-of-arkansas-and-tennessee/)

1 bravely to stave off efforts to dispossess them of their land, homes, and rights. The
2 battle for local control was intense, but it is hard to believe that the conceal carry
3 law of 1863 was enforced in a discriminatory way when and where Hispanics and
4 their Anglo allies controlled the courts and the sheriff's office.³²

5 24. There is abundant evidence that the vast majority of the firearms laws,
6 from the Founding Era to the present, were enacted to stem real increases in
7 violence in our society, and were enforced, although with a degree of bias, against
8 whites as well as people of color.

9 **D. Mass murder.**

10 25. Cramer's claim that a mass murder is an assault over twenty-four
11 hours in multiple locations in which at least two persons are killed (and in which at
12 least one more person is killed or wounded) is misleading. In my Supplemental
13 Expert Report, I followed the definition of the Violence Project³³ (which follows
14 the FBI definition of at least four persons killed besides the offender), because my
15 purpose was to focus on the types of homicides at issue in this case—the homicides
16 which have led concerned voters and political leaders in California and in other
17 states, counties, and municipalities to ban extended ammunition magazines and
18 certain classes of semiautomatic rifles. These are shootings that take place in public

19
20 ³² See, for example, the new book by my Ph.D. student and fellow California
21 native Michael Alarid, who is an Associate Professor of History at the University of
22 Nevada-Las Vegas. Michael J. Alarid, *Hispano Bastion: New Mexican Power in the
23 Age of Manifest Destiny, 1837-1860* (Albuquerque: University of New Mexico
24 Press, 2022). See also Faragher, *Eternity Street*; and Roth, *American Homicide*,
25 365-368.

26 ³³ The Violence Project defines a mass shooting as “a multiple homicide
27 incident in which four or more victims are murdered with firearms—not including
28 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).”
<https://www.theviolenceproject.org/mass-shooter-database/>, accessed October 4,
2022.

1 settings, in which one or two individuals can kill or wound dozens of people in a
2 matter of minutes or seconds: the slaughter of school children and teachers in
3 Newtown and Uvalde, of worshippers in Buffalo or Charleston, and of shoppers in
4 El Paso, not to mention the massacres that have occurred in Sacramento, San
5 Bernardino, and elsewhere in California. Americans want to feel safe in public, in
6 school, and at work. That is why my declaration focuses on mass homicides of
7 public concern.

8 26. The public is also horrified today when they learn of mass violence in
9 the past. That is why our national reckoning in 2021 with the Tulsa Massacre was
10 so difficult for so many Americans, as was our reckoning with the Draft Riots of
11 1863, in which draft resisters and Confederate sympathizers killed, maimed, or
12 terrorized African Americans, orphans, Union soldiers, and supporters of the Union
13 cause for several days. That is why my Supplemental Expert Report focused on
14 those kinds of mass murders in the past.

15 27. When we turn from the Secret Service's definition of mass murder to
16 the Violence Project's definition, the destructive power of certain modern firearms
17 technologies is clear. Yes, a hit-and-run killer, like the one who killed three
18 students and critically injured five others at Michigan State, can empty a ten-round
19 clip in classroom building, run away to the Student Union, empty another ten-round
20 clip, and run away again.³⁴ The law at issue in this case could not stop him. But the
21 law in this case can limit the ability of a lone gunman or pair of gunmen to obtain
22 easily AR-platform rifles used to kill or wound far more people in minutes or
23 seconds at a holiday parade, an outdoor concert, or a packed night club. An angry
24 loner could not commit mass murder on that scale with the technologies of the
25

26
27 ³⁴ New York Times, February 14, 2023.
28 <https://www.nytimes.com/2023/02/14/us/michigan-state-university-shooting.html?searchResultPosition=8>

1 seventeenth, eighteenth, or nineteenth century. That loner would need accomplices,
2 and lots of them.

3 28. It is up to the voters and public officials to decide whether to pass such
4 laws and the courts to determine their constitutionality. Such laws address a real
5 danger and will deter such crimes, if not prevent them altogether. Cramer's list of
6 attacks in which three or more people were killed or wounded over a space of
7 twenty-four hours proves that our nation has a homicide problem, but it does not
8 address the threat that certain kinds of modern firearms technologies pose in the
9 hands of an angry, embittered individual who declares war on our society.

10 **E. Motivation.**

11 29. Cramer's unsystematic research on multiple murders is also
12 misleading when it comes to understanding the motives and mental states of today's
13 mass murderers. He neglects the work of every scholar and journalist who has
14 written thoughtfully about the problem after engaging in systematic research, most
15 notably James Alan Fox and Jack Levin, the preeminent authorities in the field.³⁵
16 The motives Cramer cites, such as greed or jealousy, are not particular to mass
17 killers; they are common human emotions. Likewise, the mental states he describes,
18 such as intoxication, depression, or schizophrenia, are experienced by millions of
19 Americans every day. What sets mass murderers apart? Why are they, as lone
20 individuals or as partners with another lone individual, ready to declare war against
21 their classmates, coworkers, or society? And why is it so hard to prevent them from
22 killing?

23
24
25 ³⁵ James Alan Fox and Jack Levin, *Extreme Killing: Understanding Serial*
26 *and Mass Murder* (Thousand Oaks: Sage, 2012); and Jack Levin and James Alan
27 Fox, *Mass Murder: America's Growing Menace* (New York: Plenum Press, 1985).
28 For an outstanding investigation by a journalist into the complexities of a particular
mass murder, see Dave Cullen, *Columbine* (New York: Twelve, 2009).

1 30. Consider, for example, the superb scholarship of Kathleen Newman,
2 who studied school shooters in *Rampage*.³⁶ The fundamental problem, according to
3 Newman, is the way that students who contemplate mass murder perceive
4 themselves as *marginal*, even if they have not been bullied or abused by their
5 classmates. They feel *socially isolated*: a feeling that can be all the more intense,
6 according to Newman, in close knit rural or suburban communities, where it can be
7 difficult for people to find peers who share their feelings or interests. Newman
8 grants that psychosocial problems can “magnify” the students’ feelings of
9 marginality and isolation. But what moves school shooters to action are *cultural*
10 *scripts* that are readily available in the media, especially social media. The scripts
11 offer alienated individuals a way to “solve” their problems and assert their
12 masculinity through mass violence. And once they embrace those scripts, the
13 pressure to act grows more and more intense, especially if they share their plans
14 with a confidante or on social media. Incentives to act also increase, according to
15 Newman, because mass violence offers isolated young males a way to send a
16 message, assert their masculinity, gain fame, and attack the adult power structure
17 and adolescent social hierarchy that they feel has betrayed them.

18 31. Newman offers an excellent list of warning signs that students and
19 teachers should look for. But none of the students who Newman studied were on
20 the verge of expulsion, imprisonment, or compulsory commitment to a mental
21 institution. They could not have been taken out of school or forced into treatment.
22 And what distinguished them was not their feelings, but the *extremity* of their
23 feelings—feelings that nearly every adolescent feels at one time or another. That is
24 why most would-be school shooters, like most adult mass killers, fly under the
25 radar. They are hard to distinguish from their peers. However, Newman does cite
26

27 ³⁶ Katherine S. Newman, *Rampage: The Social Roots of School Shootings*
28 (New York: Perseus, 2004), especially 229-270.

1 one more important precursor of mass murders in schools that does distinguish
2 some young men: access to a firearm.

3 **F. Mental health.**

4 32. Cramer's claim that mental illness is the fundamental cause of mass
5 murder and that access to mental health services will solve the problem is also
6 misleading. First, people who are mentally ill are no more likely to commit violent
7 assaults than people who are not mentally ill. There are, as Janet Colaizzi has
8 found, specific kinds of mental illness that can predispose a person to violence: for
9 example, acute schizophrenia, if it leads to hallucinations, hearing voices, and
10 paranoia.³⁷ It appears that the mass murderers in Aurora, Colorado, and in Tucson,
11 Arizona, suffered from such an illness.³⁸ But the vast majority of Americans who
12 suffer from schizophrenia are under treatment; and it is impossible in a free society
13 to force people with potentially dangerous forms of schizophrenia to take their
14 medications or to commit them to mental institutions against their will, if they have
15 yet to commit serious acts of violence. Our criminal justice system can intervene
16 only when it is too late.

17 33. Second, criminologists have explored as a matter of urgency the
18 relationship between violence and mental illness. But they have done so not by
19 looking at mental illness in isolation, as Cramer does, but in the context of other
20 factors that may lead to violence, to determine if mental illness is truly an important
21 factor. For example, in the research that my colleagues and I conducted recently on
22 the relationship at the county level between homicide and the opioid epidemic for
23 European Americans, 1999–2015, we looked at suicide as a proxy for severe

24
25 ³⁷ Janet S. Colaizzi, *Homicidal Insanity, 1800-1985* (Tuscaloosa: University
26 of Alabama Press, 2002); and Colaizzi, "Predicting Dangerousness: Psychiatric
27 Ideas in the United States, 1800-1983" (Ph.D. dissertation: Ohio State University,
1983).

28 ³⁸ See https://en.wikipedia.org/wiki/2012_Aurora_Colorado_shooting and
https://en.wikipedia.org/wiki/2011_Tucson_shooting.

1 depression. We found that homicides were strongly correlated with suicides with
2 firearms ($r = .64$), because such suicides are highly correlated with firearms
3 ownership, as measured by the Cook Index of Firearms Ownership, a well-validated
4 measure that looks at the percentage of suicides committed with a firearm ($r = .79$).
5 Having a firearm in the home elevates the risk of suicide dramatically, because
6 suicide attempts with firearms are far more lethal than suicide attempts by other
7 means, except for falls from heights. But when we looked at the relationship
8 between homicides and suicides without firearms—a measure of severe depression
9 that is not confounded by the level of firearms ownership—the bivariate
10 relationship was insignificant ($r = .03$). When we looked at all of the variables in
11 our database together, it was firearms ownership, not suicides, that elevated the risk
12 of homicide.³⁹

13 34. We discovered, however, following the work of Case and Deaton on
14 “deaths of despair,”⁴⁰ that emotions such as anger, worry, pain, stress, and sadness,
15 as self-reported in the national Gallup-Healthways survey, were a significant
16 contextual factor in elevating European American homicide rates at the county
17 level. And as we know from studies of individuals who commit mass murders, such
18 as Newman’s study of school shooters, what they have most in common is not
19 severe mental illness, but feelings, such as anger, hatred, and bitterness: sometimes
20 toward coworkers or classmates; sometimes toward people of particular ethnicities,
21 faiths, genders, or political persuasions; and sometimes toward people who simply
22 appear to enjoy the love, happiness, success, respect, and sense of community that
23 mass murderers feel they have been unjustly deprived of.⁴¹

24 _____
25 ³⁹ Richard Rosenfeld, Randolph Roth, and Joel Wallman, “The Opioid
26 Epidemic and Homicide in the United States, *Journal of Research in Crime and
27 Delinquency* 58 (2021): 1-46.

28 ⁴⁰ Anne Case and Angus Deaton, *Deaths of Despair and the Future of
Capitalism* (Princeton: Princeton University Press, 2020).

⁴¹ For an excellent summation by criminologists of the ways in which

1 **G. Technology.**

2 35. It is impossible in our free society to ensure that everyone feels loved,
3 respected, and successful, especially because so many people in our society whom
4 we might consider successful do not feel that way, because their ambitions are
5 unrealistic. It is also impossible to prevent people from resenting others who are
6 successful and from blaming others for their personal failures. And it is impossible
7 to require that people learn from failures so they can do better in the future, or come
8 to grips with personal losses or setbacks, which is hard even for those of us who
9 would never harm another person.

10 36. That is why many citizens, criminologists, and policymakers seek to
11 limit access to technologies that give angry, alienated individuals the power to kill
12 on a massive scale—planes, fertilizer, explosives, and even trucks (rental
13 companies are now asked by state and local law enforcement agencies to keep track
14 of suspicious rental patterns that may indicate that a person is intent on doing
15 harm).⁴² Accidental deaths have declined dramatically in the United States since
16 1950, but the primary cause has not been changes in personal behavior. It has been
17 bans on unsafe products, such as dangerous toys or cars not equipped with air bags
18 and seat belts.⁴³

19 despair, personal setbacks, depression, and grievances work together to drive a
20 person to mass murder, see Jillian Peterson and James Densley, “We Profiled the
21 ‘Signs of Crisis’ in 50 Years of Mass Shooting. This is What We Found,” *New York*
Times, January 26, 2023.

22 [https://www.nytimes.com/interactive/2023/01/26/opinion/us-mass-shootings-](https://www.nytimes.com/interactive/2023/01/26/opinion/us-mass-shootings-despair.html)
[despair.html](https://www.nytimes.com/interactive/2023/01/26/opinion/us-mass-shootings-despair.html)

23 ⁴² See, for example, “NYPD Warned Truck Rental Companies of ‘Suspicious
24 Indicators,’” Yahoo News, November 1, 2017, [https://www.yahoo.com/news/nypd-](https://www.yahoo.com/news/nypd-visited-truck-rental-companies-234200765.html)
[visited-truck-rental-companies-234200765.html](https://www.yahoo.com/news/nypd-visited-truck-rental-companies-234200765.html); and “Potential Indicators of
25 Suspicious Activities Related to Rental Trucks,” Florida Safe, Florida Department
of Law Enforcement, [http://www.fdle.state.fl.us/s4/Home/Documents/Tripwire-](http://www.fdle.state.fl.us/s4/Home/Documents/Tripwire-Related-to-Rental-Trucks.aspx)
[Related-to-Rental-Trucks.aspx](http://www.fdle.state.fl.us/s4/Home/Documents/Tripwire-Related-to-Rental-Trucks.aspx).

26 ⁴³ See, for example, John C. Burnham, “Why Did the Infants and Toddlers
27 Die? Shifts in Americans’ Ideas of Responsibility for Accidents—From Blaming
28 Mom to Engineering,” *Journal of Social History* 29 (1995): 817-837; Burnham,

1 37. Voters and public officials who support bans on extended magazines
2 and on certain classes of semiautomatic rifles have never sought to disarm
3 Americans. They have sought to keep unsafe products—in this case, products
4 designed for the sole purpose of killing and wounding the maximum number of
5 people possible in the shortest amount of time—off the market. These types of
6 safety measures are appropriate in addressing premeditated crimes, like mass
7 shootings and terrorist attacks, by reducing the accessibility and ease of acquiring
8 those dangerous products.⁴⁴

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

11 Executed on February 24, 2023 at Columbus, Ohio.

12
13
14 

15
16 Randolph Roth

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22

Accident Prone: A History of Technology, Psychology, and Misfits of the Machine
23 Age (Chicago: University of Chicago Press, 2009); and Patricia G. Schnitzer, M.
24 Denise Dowd, Robin L. Kruse, and Barbara A. Morrongiello, “Supervision and
 Risk of Unintentional Injury in Young Children,” *Injury Prevention* 21 (2015): e63-
 e70.

25 ⁴⁴ As discussed in my Supplemental Expert Report, restrictions on the
26 carrying of certain concealable weapons, such as dirks and Bowie knives, sought to
27 address their use in opportunistic crimes that were occurring at alarming rates
28 during the early national period. Restricting the carrying of dangerous products and
 weapons used in premeditated crimes today would not be effective in protecting the
 public from those crimes.

EXHIBIT 59

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9 *in his official capacity*¹

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14
15 **STEVEN RUPP; STEVEN**
DEMBER; CHERYL JOHNSON;
16 **MICHAEL JONES;**
CHRISTOPHER SEIFERT;
17 **ALFONSO VALENCIA; TROY**
WILLIS; and CALIFORNIA RIFLE
18 **& PISTOL ASSOCIATION,**
INCORPORATED,

19 Plaintiffs,
20

21 v.

22 **ROB BONTA, in his official capacity**
as Attorney General of the State of
23 **California; and DOES 1-10,**

24 Defendants.
25

8:17-cv-00746-JLS-JDE

**SUPPLEMENTAL EXPERT
REPORT AND DECLARATION
OF ROBERT SPITZER**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

26
27 ¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the
Attorney General of the State of California. Pursuant to Federal Rule of Civil
28 Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as
the defendant in this case.

1 **SUPPLEMENTAL EXPERT REPORT AND DECLARATION OF**
2 **ROBERT SPITZER**

3 I, Robert Spitzer, declare under penalty of perjury that the following is true
4 and correct:

5 1. I have been asked by the Office of the Attorney General of the
6 California Department of Justice to prepare an expert report on the history of
7 firearms restrictions enacted in the early twentieth century, addressing machine
8 guns (fully automatic firearms), semiautomatic firearms, and ammunition feeding
9 devices, and tracing those regulations back to earlier hardware and use restrictions
10 on other types of weapons enacted in the nineteenth century and earlier. This
11 supplemental expert report and declaration (“Report”) is based on my own personal
12 knowledge and experience, and, if I am called as a witness, I could and would
13 testify competently to the truth of the matters discussed in this Report.

14 **PROFESSIONAL QUALIFICATIONS**

15 2. I am a Distinguished Service Professor of Political Science Emeritus at
16 the State University of New York at Cortland. I was also a visiting professor at
17 Cornell University for thirty years. I earned my Ph.D. in Government from Cornell
18 University. I reside in Williamsburg, Virginia. A copy of my curriculum vitae is
19 attached as **Exhibit A** to this Report.

20 3. I have been studying and writing about gun policy for over thirty
21 years. My first publication on the subject appeared in 1985. Since then, I have
22 published six books and over one hundred articles, papers, and essays on gun
23 policy. My expertise includes the history of gun laws, gun policy in American
24 politics, and related historical, legal, political, and criminological issues. My book,
25 *The Politics of Gun Control*, has been in print since its initial publication in 1995.
26 It examines firearms policy in the United States through the lenses of history, law,
27 politics, and criminology. The eighth edition of the book was published in 2021 by
28 Routledge Publishers. My two most recent books on gun policy, *Guns across*

1 *America* (Oxford University Press, 2015) and *The Gun Dilemma* (Oxford
2 University Press, 2023), both deal extensively with the study of historical gun laws.
3 I am frequently interviewed and quoted in the national and international media on
4 gun-related matters. For over twenty years, I have been a member of the National
5 Rifle Association and of Brady (formerly, the Brady Campaign to Prevent Gun
6 Violence).

7 4. I have provided written testimony as an expert witness in *Worman v.*
8 *Healey*, No. 1:17-10107-WGY (D. Mass.), which concerned the constitutionality of
9 Massachusetts' restrictions on assault weapons, in *Miller v. Bonta*, No. 3:19-cv-
10 01537-BEN-JLB, which concerns the constitutionality of California's restrictions
11 on assault weapons, in *Duncan v. Bonta*, No. 3:17-cv-01017-BEN-JLB, which
12 concerns the constitutionality of California's restrictions on large-capacity
13 magazines, and in *Fouts v. Bonta*, No. 3:19-cv-01662-BEN-JLB, which concerns
14 the constitutionality of California's restrictions on billy clubs. I have co-authored
15 amicus briefs in numerous cases, including *Nordyke v. King*, U.S. Court of Appeals,
16 Ninth Circuit, 319 F.3d 1185 (2003); *Republic of Iraq et al. v. Beatty et. Al.*, U.S.
17 Supreme Court, 556 U.S. 848 (2009); *McDonald v. Chicago*, U.S. Supreme Court,
18 561 U.S. 742 (2010); *Ezell v. Chicago*, U.S. Court of Appeals for the Seventh
19 Circuit, 651 F.3d 684 (2011); and *People of the State of Illinois v. Aguilar*, Illinois
20 Supreme Court, No. 08 CR 12069 (2012).

21 5. I have also presented written testimony to the U.S. Congress on "The
22 Second Amendment: A Source of Individual Rights?" submitted to the Judiciary
23 Committee, Subcommittee on the Constitution, Federalism, and Property Rights,
24 U.S. Senate, Washington, D.C., September 23, 1998; "Perspectives on the 'Stand
25 Your Ground' Movement," submitted to the Judiciary Committee, Subcommittee
26 on the Constitution, Civil Rights and Human Rights, U.S. Senate, Washington,
27 D.C., October 29, 2013; and "The Hearing Protection Act to Deregulate Gun
28 Silencers," submitted to Committee on Natural Resources, Subcommittee on

1 Federal Lands, the U.S. House of Representatives, Hearings on the Sportsmen's
2 Heritage and Recreational Enhancement Act (SHARE Act), Washington, D.C.,
3 September 12, 2017.

4 6. I have been retained by the California Department of Justice to render
5 expert opinions in this case. I am being compensated at a rate of \$500 per hour.

6 OPINIONS

7 I. INTRODUCTION

8 7. The current controversy surrounding legislative efforts to restrict semi-
9 automatic assault weapons and large capacity magazines would seem to be a purely
10 contemporary matter, responding to the modern phenomenon of mass shootings.
11 The effort to restrict such weapons was sparked in part by a shooting at an
12 elementary school in Stockton, California in 1989, when a man armed with an AK-
13 47 and a handgun killed five children and wounded thirty-three others. Later that
14 year, California enacted the first assault weapons ban in the country. Five years
15 later, Congress enacted a limited ten year ban.² As of this writing, eight states plus
16 the District of Columbia have similar bans in place.³ These jurisdictions represent
17 approximately 89 million people, or approximately 26.8% of the U.S. population.⁴

18 ² Robert J. Spitzer, *The Politics of Gun Control*, 8th ed. (NY: Routledge,
19 2021), 25-26, 205-11.

20 ³ Giffords Law Center, Assault Weapons, [https://giffords.org/lawcenter/gun-](https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/assault-weapons/)
21 [laws/policy-areas/hardware-ammunition/assault-weapons/](https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/assault-weapons/); Robert J. Spitzer, *The*
22 *Gun Dilemma* (NY: Oxford University Press, 2023), 14-15. The nine American
23 jurisdictions with assault weapons bans are: California, Connecticut, Delaware, the
24 District of Columbia, Hawaii, Maryland, Massachusetts, New Jersey, and New
25 York. Notably, the U.S. House of Representatives passed a renewed federal assault
26 weapons ban with magazine limitations in 2022 (H.R. 1808, 117th Cong. (2022)).
27 Delaware recently enacted its assault weapons and large-capacity magazine
28 restrictions in June 2022. See Governor Carney Signs Package of Gun Safety
Legislation (June 30, 2022), [https://news.delaware.gov/2022/06/30/governor-](https://news.delaware.gov/2022/06/30/governor-carney-signs-package-of-gun-safety-legislation/)
[carney-signs-package-of-gun-safety-legislation/](https://news.delaware.gov/2022/06/30/governor-carney-signs-package-of-gun-safety-legislation/).

⁴ See U.S. Census, National Population Totals and Components of Change:

1 Twelve states plus the District of Columbia restrict large capacity magazines
2 (LCMs).⁵ These jurisdictions represent more than 103 million individuals, or
3 approximately 31.2% of the U.S. population.⁶ And in 2022, the U.S. House of
4 Representatives passed a renewed nationwide assault weapons ban with LCM
5 restrictions.⁷

6 8. These recent efforts to restrict assault weapons and LCMs are simply
7 the latest chapter in a centuries-long effort to protect the public from harm and to
8 dampen weapons-related criminality. The pattern of criminal violence and
9 concerns for public safety leading to weapons restrictions is not new; in fact, it can
10 be traced back to the Nation's beginnings. While the particular weapons
11 technologies and public safety threats have changed over time, governmental
12 responses to the dangers posed by certain weapons have remained constant.
13 Current restrictions on assault weapons and detachable ammunition magazines are

14
15 2020-2021, [https://www.census.gov/data/tables/time-series/demo/popest/2020s-](https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-total.html#par_textimage_2011805803)
16 [national-total.html#par_textimage_2011805803](https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-total.html#par_textimage_2011805803) (2021 state population estimates).
17 The total population in these jurisdictions is estimated to be 88,976,315 out of a
U.S. total of 331,501,080.

18 ⁵ Giffords Law Center, Large Capacity Magazines,
19 [https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/large-](https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/large-capacity-magazines/)
20 [capacity-magazines/](https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/large-capacity-magazines/); Spitzer, *The Gun Dilemma*, 30. The thirteen jurisdictions are
21 California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii,
22 Maryland, Massachusetts, New Jersey, New York, Rhode Island, Vermont, and
23 Washington. With two exceptions, all of these restrictions impose a ten-round limit
on magazines, as did the 1994 federal law, and Hawaii's restrictions apply to only
handguns.

24 ⁶ U.S. Census, National Population Totals and Components of Change: 2020-
25 2021, [https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-](https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-total.html#par_textimage_2011805803)
26 [total.html#par_textimage_2011805803](https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-total.html#par_textimage_2011805803) (2021 state population estimates). The total
population in these jurisdictions is estimated to be 103,503,256 out of a U.S. total
of 331,501,080.

27 ⁷ H.R. 1808, 117th Cong. (2022).
28

1 historically grounded. They are part of a pattern in America's history of legislative
2 restrictions on particular weapons stretching back centuries.

3 **II. REGULATORY HISTORY OF FULLY AUTOMATIC AND SEMI-**
4 **AUTOMATIC FIREARMS (EARLY TWENTIETH CENTURY)**

5 9. A clear example of this historical pattern is provided by early
6 twentieth-century restrictions related to fully automatic firearms. While weapons
7 capable of firing rounds in rapid succession can be traced to guns of the late
8 nineteenth and early twentieth centuries, like the hand-cranked, multi-barreled
9 Gatling gun which could fire up to 200 rounds per minute,⁸ it and its successors
10 were military weapons designed to be used in combat and fired from a tripod or
11 similar supporting apparatus, owing to the Gatling gun's size and weight. Strictly
12 speaking, guns like the Gatling gun were not fully automatic as they did not fire a
13 continuous stream of bullets while depressing a gun trigger. The development of a
14 fully automatic machine gun for battlefield use, capable of firing all of its rounds
15 from a single barrel and with a single trigger pull, came to fruition during World
16 War I, and to devastating effect, where tripod-mounted machine guns on the
17 battlefield, like the Maxim, which initially fired 200-400 rounds per minute but
18 later 400-600 rounds per minute from a gun weighing roughly 100 pounds.⁹

19
20 ⁸ The Gatling gun, a manually operated, hand-cranked machine gun, was
21 adopted by the U.S. Army in 1866, and was utilized in warfare against Native
22 Americans and the Spanish-American War of 1898. Richard W. Stewart, *American*
23 *Military History, Vol. I: The U.S. Army and the Forging of a Nation, 1775-1917*
24 (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>.

25 ⁹ Donald M. Snow and Dennis M. Drew, *From Lexington to Desert Storm:*
26 *War and Politics in the American Experience* (Armonk, NY: M.E. Sharpe, 1994),
27 127; "How The Machine Gun Changed Combat During World War I," Norwich
28 University Online, October 15, 2020, <https://online.norwich.edu/academic-programs/resources/how-machine-gun-changed-combat-during-world-war-i>.

1 10. Out of World War I came a practical, lighter-weight, reliable, hand-
2 held, fully automatic weapon: the Thompson submachine gun, widely known as the
3 Tommy gun. Though it was developed for use in World War I, it came too late in
4 the war to have much effect. Its inventor, John Thompson, patented his .45 caliber
5 gun in 1920.¹⁰ The Tommy gun was initially unregulated after World War I and
6 made available for civilian purchase, typically with either a 20-30 round stick
7 magazine or a 100-round drum magazine. (The U.S. military showed little interest
8 in acquiring the weapon, as the military largely demobilized and contracted sharply
9 in size after the war.¹¹) It was only at this point—in the early 1920s—that such
10 hand-held weapons operated reliably, were made available to civilians, and began
11 to circulate in society,¹² though sales in the early 1920s were sluggish. By 1925,
12 Thompson’s marketing company, Auto Ordnance, had sold only about 3,000 of the
13 15,000 it had manufactured up to this point, including to police forces and
14 individuals.¹³ Before the early 1920s, these weapons were unregulated for the
15 obvious reason that they did not exist or were not circulating widely in society.
16 When they did begin to circulate, however, their uniquely destructive capabilities
17 rapidly became apparent, especially to the emergent Prohibition-fueled gangster
18 organizations of the 1920s. Another automatic weapon developed for World War I

19 ¹⁰ Matthew Moss, “From Gangland to the Battlefield — 15 Amazing Facts
20 About the Thompson Submachine Gun,” *Military History Now*, January 16, 2015,
21 [https://militaryhistorynow.com/2015/01/16/from-gangland-to-the-battlefield-15-
amazing-facts-about-the-thompson-submachine-gun/](https://militaryhistorynow.com/2015/01/16/from-gangland-to-the-battlefield-15-amazing-facts-about-the-thompson-submachine-gun/).

22 ¹¹ John Ellis, *The Social History of the Machine Gun* (NY: Pantheon, 1975),
23 149-52.

24 ¹² Peter Suci, “The Thompson Submachine Gun: Made for the U.S. Postal
25 Service?” *The National Interest*, July 3, 2020,
26 [https://nationalinterest.org/blog/reboot/thompson-submachine-gun-made-us-postal-
service-164096](https://nationalinterest.org/blog/reboot/thompson-submachine-gun-made-us-postal-service-164096).

27 ¹³ Lee Kennett and James LaVerne Anderson, *The Gun in America*
28 (Westport, CT: Greenwood Press, 1975), 203.

1 was the Browning Automatic Rifle (BAR). It fired a .30-06 caliber round, could
2 receive a 20-round box magazine, and could fire up to 650 rounds per minute. The
3 BAR first appeared on the battlefield in 1918.¹⁴ It, too, made its way into civilian
4 life and found favor among criminals and gangsters in the 1920s and early 1930s.¹⁵
5 Like contemporary assault weapons and their use in mass shootings, guns like the
6 Tommy gun and the BAR were actually used relatively infrequently by criminals
7 generally, but when they were used, they exacted a devastating toll and garnered
8 extensive national attention, such as their use in the infamous St. Valentine's Day
9 massacre in Chicago in 1929.¹⁶

10 **A. State-Level and Nationwide Attempts to Regulate Automatic**
11 **and Semi-Automatic Firearms in the Early Twentieth**
12 **Century**

13 11. In response to the wider availability of firearms like the Tommy gun
14 and the BAR, between 1925 and 1934, at least 32 states enacted anti-machine gun
15 laws; eight of these laws were passed in 1927 alone (see Exhibits B and D). These
16 state (and eventually federal) enactments were anticipated, justified, and promoted
17 by the National Conference of Commissioners on Uniform State Laws, a national

18
19 ¹⁴ Paul Richard Huard, "Browning Automatic Rifle: The Most Dangerous
20 Machine Gun Ever?" *The National Interest*, November 19, 2019,
21 [https://nationalinterest.org/blog/buzz/browning-automatic-rifle-most-dangerous-](https://nationalinterest.org/blog/buzz/browning-automatic-rifle-most-dangerous-machine-gun-ever-97662)
22 [machine-gun-ever-97662](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 ¹⁵ Derek Avery, *Firearms* (Hertfordshire, England: Wordsworth Editions,
24 1995), 12. The BAR was a favorite of the notorious outlaws Bonnie and Clyde, for
25 example. Christian Oord, "The Weapons of Bonnie & Clyde & the Guns That
26 Stopped Them," *War History Online*, April 26, 2019,
27 [https://www.warhistoryonline.com/history/weapons-of-bonnie-and-](https://www.warhistoryonline.com/history/weapons-of-bonnie-and-clyde.html?A1c=1)
28 [clyde.html?A1c=1](https://www.warhistoryonline.com/history/weapons-of-bonnie-and-clyde.html?A1c=1).

¹⁶ Chris McNab, *Firearms and American Law Enforcement Deadly Force*
(NY: Osprey Publishing, 2009), 97-98.

1 organization formed in 1892 to provide “non-partisan, well-conceived and well-
2 drafted legislation that brings clarity and stability to critical areas of state statutory
3 law.”¹⁷ (Today, the organization is known as the Uniform Law Commission.) In
4 1923, the Commission organized a special committee to draft a “Uniform Act to
5 Regulate the Sale and Possession of Firearms.” In 1928, it issued a model law
6 calling for the prohibition of the possession of “any firearm which shoots more than
7 twelve shots semi-automatically without reloading.”¹⁸ In 1930, it issued a model
8 firearms act focusing on “guns of the pistol type.” In 1932, it issued a model act
9 “intended not only to curb the use of the machine gun, but to make it unwise for
10 any civilian to possess one of the objectionable type.” The Commission explained
11 that, between 1923 and 1930, “the infant industry of racketeering grew to
12 monstrous size, and with it the automatic pistol replaced the revolver, to be in turn
13 displaced by a partly concealable type of machine gun-the Thompson .45 inch
14 caliber submachine gun becoming most popular. . . .”¹⁹

15 12. Congress enacted a machine gun ban for the District of Columbia in
16 1932 which included as a machine gun “any firearm which shoots automatically or
17 semiautomatically more than twelve shots without reloading.”²⁰ The National Rifle
18 Association endorsed DC’s ban, stating “it is our desire [that] this legislation be
19

20 ¹⁷ Uniform Law Commission, About Us,
21 <https://www.uniformlaws.org/aboutulc/overview>.

22 ¹⁸ Report of Firearms Committee, 38th Conference Handbook of the National
23 Conference on Uniform State Laws and Proceedings of the Annual Meeting 422-23
(1928).

24 ¹⁹ “Uniform Machine Gun Act,” National Conference of Commissioners on
25 Uniform State Laws, Forty-Second Annual Conference, Washington, D.C., October
26 4-10, 1932, http://www.titleii.com/bardwell/1932_uniform_machine_gun_act.txt.

27 ²⁰ “Hearings Before the Committee on Ways and Means, National Firearms
28 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).

1 enacted for the District of Columbia, in which case it can then be used as a guide
2 throughout the states of the Union.”²¹ In his testimony before Congress in 1934 on
3 the bill that became the National Firearms Act, NRA vice president Milton A.
4 Reckord extolled his organization’s role in passing the 1932 D.C. law, saying, “. . .
5 the association I represent is absolutely favorable to reasonable legislation. We are
6 responsible for the uniform firearms act. . . . in the District of Columbia. It is on
7 the books now.”²²

8 13. In 1934, Congress enacted the National Firearms Act, which imposed
9 a series of strict (and effective²³) requirements on the civilian acquisition and
10 general circulation of fully automatic weapons, like the Tommy gun. The National
11 Firearms Act imposed a tax on the manufacture, sale, and transfer of listed
12 weapons, including machine guns, sawed-off shotguns and rifles, silencers, and
13 “any other weapons” with certain firing capabilities. Such weapons had to be
14 registered with the Treasury Department, and the owners fingerprinted and subject
15 to a background check, with the payment of a \$200 tax.²⁴ The early models of the
16 Tommy gun could fire “an astounding 1,500 rounds per minute. A Tommy gun
17 could go through a 100-round drum magazine in four seconds. Later versions fired
18 600 to 700 rounds per minute.”²⁵

20 ²¹ S. Rep. No. 72-575, at 5-6 (1932).

21 ²² “Hearings Before the Committee on Ways and Means,” 36.

22 ²³ Philip J. Cook and Kristin A. Goss, *The Gun Debate*, 2nd ed. (NY: Oxford
23 University Press, 2020), 13; Spitzer, *The Politics of Gun Control*, 195-96.
24 According to the ATF’s national registry of machine guns, 726,951 are registered
25 with the government as of 2020. Such weapons are rarely used in crimes. Firearms
26 Commerce in the United States Annual Statistical Update 2020, United States
Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, 15,
<https://www.atf.gov/file/149886/download>.

27 ²⁴ 48 Stat. 1236.

28 ²⁵ Moss, “From Gangland to the Battlefield.”

1 14. In his opening statement to the Ways and Means Committee of the
2 U.S. House of Representatives, Attorney General Homer Cummings made clear
3 that the bill under consideration was designed to fight the epidemic of gun crime
4 where criminals could evade capture by crossing state lines:

5 The development of late years of the predatory criminal who passes
6 rapidly from State to State, has created a situation which is giving
7 concern to all who are interested in law and order. . . . there are more
8 people in the underworld today armed with deadly weapons, in fact,
9 twice as many, as there are in the Army and the Navy of the United
10 States combined. . . . In other words, roughly speaking, there are at least
11 500,000 of these people who are warring against society and who are
12 carrying about with them or have available at hand, weapons of the most
13 deadly character.²⁶

14 As one member of the committee observed, “The question in my mind and I think
15 in the majority of the committee is what we can do to aid in suppressing violations
16 by such men as [John] Dillinger and others.”²⁷

17 15. To address the problem, the original version of the bill proposed
18 regulating both semi-automatic and fully automatic firearms, as it defined restricted
19 machine guns this way: “The term ‘machine gun’ means any weapon designed to
20 shoot automatically or semiautomatically 12 or more shots without reloading.”²⁸
21 The final version of the bill limited restrictions to fully automatic firearms.
22 Contemporary assault weapons that fire semi-automatically, like AR-platform
23 rifles, are excluded from the National Firearms Act.

24 ²⁶ “Hearings Before the Committee on Ways and Means,” 4. The version of
25 the bill that appears on page 1 of the Hearings had this definition of machine gun:
26 “The term ‘machine gun’ means any weapon designed to shoot automatically or
27 semiautomatically twelve or more shots without reloading.”

28 ²⁷ “Hearings Before the Committee on Ways and Means,” 42.

²⁸ Ibid., 52.

1 16. In addition to the National Firearms Act's restrictions on fully
2 automatic weapons, during this same time period, at least seven states plus the
3 District of Columbia, and as many as eleven states, enacted laws restricting semi-
4 automatic weapons (see Exhibit B).²⁹ The reason for restricting semi-automatic
5 firearms is not hard to discern. With the exception of the District of Columbia's
6 restrictions on semi-automatic weapons, these restrictions all appeared in the same
7 statutes as those restricting fully automatic weapons, which utilize the same
8 fundamental firearms technology: an action that automatically loads a new round
9 into the chamber after each shot is fired, potentially with the use of detachable
10 ammunition magazines or similar feeding devices, and is capable of firing
11 numerous rounds without reloading.³⁰

12 17. As the prior discussion reveals, the regulation of automatic and semi-
13 automatic weapons in the 1920s and 1930s was closely tied to the enhanced firing
14 capacity of these weapons and the attractiveness (and use) of these weapons by
15 criminals at that time. By that time, gun technology was now available that made it
16 possible for ammunition to be reliably fired in rapid succession and guns to be
17 reloaded through interchangeable ammunition magazines or similar devices.
18 Again, the lesson is the same: once these technologies began to spread in civil
19 society, regulatory efforts proliferated.

22 ²⁹ See also Robert J. Spitzer, "Gun Law History in the United States and
23 Second Amendment Rights," *Law and Contemporary Problems* 80 (2017): 68-71.
24 The language of the restrictions in Illinois, Louisiana, and South Carolina was
ambiguous regarding whether they applied to semi-automatic weapons.

25 ³⁰ Spitzer, *The Gun Dilemma*, 32-33. In 1913, Florida enacted this measure:
26 "It shall, at any time, be unlawful to hunt game in Marion County with guns—
27 known as Automatic guns." While an automatic weapon fires a continuous stream
28 of bullets when the trigger is depressed, a semi-automatic weapon fires a single shot
with each pull of the trigger.

B. State Regulation of Ammunition Feeding Devices

18. 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).

19. Magazine firing limits were imposed in three categories of state laws (see Table 1 below): eleven 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 Virginia³¹); 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

³¹ 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.

(Illinois, Louisiana, Minnesota, New Jersey, North Dakota, Oregon, Pennsylvania, Texas, South Carolina, Vermont, and Wisconsin³²); and four states restricted all 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)³³.

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///

³² 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, 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.

³³ 1927 Cal. Stat. 938; 1933 Haw. Sess. Laws 117; 1929 Mo. Laws 170; 1933 Wash. Sess. Laws 335.

TABLE 1

AMMUNITION MAGAZINE RESTRICTIONS IN 23 STATES, 1917-1934³⁴

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)
-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)	-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)	-California (1927) -Hawaii (1933) -Missouri (1929) -Washington State (1933)

See Exhibit D for statutory text.

20. 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*

³⁴ 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/>.

1 *gun from or by means of clips, disks, drums, belts or other*
2 *separable mechanical device.*³⁵

3 The other three states in this category (Hawaii, Missouri, Washington³⁶) utilized
4 this same description. In all, at least twenty-three states enacted twenty-six gun
5 restrictions based on the regulation of ammunition magazines or similar feeding
6 devices, and/or round capacity (see Table 1). The original version of the legislation
7 that became the National Firearms Act of 1934, as noted earlier, included this
8 definition of machine gun that encompassed both semi-automatic and fully
9 automatic firearms: “The term ‘machine gun’ means any weapon designed to shoot
10 automatically or semiautomatically 12 or more shots without reloading.”³⁷ (This
11 text was derived from the law enacted by Congress for the District of Columbia in
12 1932, which also stipulated a 12 round limit, as noted previously.³⁸ The final
13 version of the 1934 bill was limited to fully automatic firearms only and did not
14 include any limitation by number of rounds fired.) Regulations concerning
15 removable magazines and magazine capacity were in fact common as early as the
16 1920s—the period of time when these weapons and devices began to make their
17 way into civilian life and also contributed to violence and criminality—as these
18 regulations were adopted by nearly half of all states, representing approximately
19 58% of the American population at that time.³⁹

20
21 ³⁵ 1927 Cal. Stat. 938 (emphasis added).

22 ³⁶ 1933 Haw. Sess. Laws 117; 1929 Mo. Laws 170; Wash. 1933 Sess. Laws
23 335.

24 ³⁷ “National Firearms Act,” Hearings Before the Committee on Ways and
25 Means, House of Representatives, on H.R. 9066, April 16, 18, and May 14, 15, and
26 16, 1934 (Washington, D.C.: GPO, 1934), 52.

27 ³⁸ Ibid., 45.

28 ³⁹ 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>.

1 **C. Lessons from the Regulation of Automatic and Semi-**
2 **Automatic Firearms and Ammunition Feeding Devices in the**
3 **Early Twentieth Century**

4 21. The lesson from this sequence of events early in the twentieth century
5 demonstrates that changes in gun policy followed a series of steps that respond to
6 developments in firearms technologies and their use in crime, each dependent on
7 the previous step. *First*, a new gun or gun technology is invented. *Second*, it may
8 then be patented, though the patenting of a design or idea by no means assures that
9 it will proceed beyond this point. *Third*, it may then be developed with a focus on
10 military applications and supplying military needs, not directly for civilian
11 acquisition or use. *Fourth*, some military-designed weapons may then spread to, or
12 be adapted to, civilian markets and use. *Finally*, if such weapons then circulate
13 sufficiently in society to pose a safety, violence, or criminological problem or
14 threat, calls for government regulation or restriction then may lead to gun
15 policy/law changes. New gun laws are not enacted when firearm technologies are
16 invented or conceived. They are enacted when those technologies circulate
17 sufficiently in society to spill over into criminal or other harmful use, presenting
18 public safety concerns that governments attempt to address through their police and
19 policy-making powers.

20 22. This lesson is significant because some argue that the absence of
21 government gun regulations in history—at the time of the invention of various
22 weapons or weapons developments—means that regulations now are unjustifiable,
23 or have no historical basis. For example, David Kopel argues that “[m]agazines of
24 more than ten rounds are older than the United States.”⁴⁰ Drawing on examples like
25 a firearm “created around 1580” capable of firing sixteen “‘superposed’ loads”

26 ⁴⁰ David Kopel, “The History of Firearm Magazines and Magazine
27 Prohibitions,” *Albany Law Review* 78 (2014-2015): 851.
28

1 (with each round stacked on top of the other); the Puckle gun said to fire eleven
2 shots and patented in 1718; the Girandoni air rifle, invented in the late 1700s; and
3 the Pepperbox pistol of the early 1800s,⁴¹ Kopel suggests that “magazines of more
4 than ten rounds are older than the Second Amendment.”⁴² Therefore, by Kopel’s
5 reckoning, since these weapons existed early in (or even before) the country’s
6 existence, and were not specifically regulated, ipso facto, today’s governments are
7 unable to regulate assault weapons, like AR-platform rifles, or magazines
8 exceeding certain capacities (typically, a ten-round limit).⁴³ More to the point,
9 Kopel’s claim that ammunition magazines holding “more than ten rounds” were
10 “very commonly possessed in the United States since 1862” and were “owned by
11 many millions of law-abiding Americans” dating back to the “mid-nineteenth
12 century”⁴⁴ is simply false, as this Declaration demonstrates.

13 23. Kopel’s and similar arguments⁴⁵ fail for two sets of reasons. First, as
14 explained in the following section, this sort of narrative misrepresents the
15 availability and capabilities of these early weapons. Second, the account fails to
16 understand the relationship between firearms’ technological development, their
17 spread into civil society, and government gun policy. As one gun history expert

18 ⁴¹Ibid., 852-54.

19 ⁴² Ibid., 849.

20 ⁴³ Ibid., 871-72 (“a court which today ruled that [10-round] magazines are
21 ‘dangerous and unusual’ would seem to have some burden of explaining how such
22 magazines, after a century and a half of being ‘in common use’ and ‘typically
23 possessed by law-abiding citizens for lawful purposes,’ became ‘dangerous and
unusual’ in the twenty-first century.”).

24 ⁴⁴ Ibid., 871. Kopel insists “that [10-round] magazines” have been “‘in
25 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.

26 ⁴⁵ Declaration of Ashley Hlebinsky in Support Of Plaintiffs’ Motion for
27 Preliminary Injunction, *Miller v. Becerra*, Case No. 3:19-cv-01537-BEN-JLB (S.D.
28 Cal.), filed September 27, 2019 (Plaintiffs’ Trial Exhibit 2).

1 noted, “the guns of 1830 were essentially what they had been in 1430: single metal
2 tubes or barrels stuffed with combustible powder and projectiles” where “after
3 every shot, the shooter had to carry out a minimum of three steps: pour powder into
4 the barrel; add a projectile. . .; then ignite the gunpowder and send the projectile on
5 its way.”⁴⁶ The firearms and firearm feeding devices regulated in the early
6 twentieth century represented a dramatically different type of firearm, capable of
7 reliable, rapid fire utilizing interchangeable ammunition feeding devices.

8 **D. The History of Pre-Twentieth Century Firearms Technologies**

9 24. As researchers and experts of gun history have noted, experimental
10 multi-shot guns existed in the eighteenth century (with multi-shot experimental
11 designs dating back as much as two centuries earlier). Kopel’s example of a
12 firearm from the late 1500s that could fire up to sixteen rounds is drawn from a
13 book titled, *Firearms Curiosa*. But this book’s very title indicates why this
14 narrative is irrelevant to the modern gun debate. The definition of “curiosa” is
15 something that is rare or unusual. As the book’s author, James Winant says, his
16 book is about “oddity guns” and “peculiar guns.”⁴⁷ That is, they were anything but
17 common, ordinary, or found in general circulation. Winant’s description of the
18 sixteen shot gun from the 1500s is that “the first pull of the trigger” fires “nine
19 Roman candle charges, a second pull will release the wheel on the rear lock and set
20 off six more such charges, and finally a third pull will fire the one remaining
21 shot.”⁴⁸ A “Roman candle charge” was defined by Winant as one where “the
22 operator had no control of the interval between shots; he could not stop the firing
23

24
25 ⁴⁶ Jim Rasenberger, *Revolver: Sam Colt and the Six-Shooter That Changed America* (NY: Scribner, 2021), 3-4.

26 ⁴⁷ James Winant, *Firearms Curiosa* (New York: Bonanza Books, 1955), 8, 9.

27 ⁴⁸ *Ibid.*, 168.
28

1 once he had started it.”⁴⁹ In other words, this firing process was more like lighting
2 the fuse of a string of firecrackers, where their ignition occurs in a manner that
3 cannot be controlled by the operator once the initial charge is ignited. Winant
4 concludes: “Of all the ideas for producing multishot firearms the scheme of
5 superimposing loads in one barrel is probably the oldest, the most discredited, the
6 most frequently recurring, and also the most readily accepted as new.”⁵⁰

7 25. An early multi-shot gun, the “Puckle Gun,” patented in 1718 in
8 London by James Puckle, could fire nine rounds per minute (hardly comparable to
9 the firing capabilities of semi- and fully automatic weapons of the early twentieth
10 century or modern era). The patent drawing of this weapon shows it sitting on a
11 tripod on the ground.⁵¹ It was not a held-held weapon. In the patent, Puckle
12 described it as “a portable Gun or Machine (by me lately invented) called a
13 DEFENCE.”⁵² It was indeed a military weapon, as Winant says: “Of the oddities
14 among military weapons none has received more publicity than the Puckle gun. . . .
15 The Puckle invention was probably the first crank-operated machine gun. It
16 embodied several elements that closely resemble construction features of Gatling,
17 Hotchkiss and other manually-operated machine guns.” Winant continued, “It is
18 doubtful that any of the Puckle guns that may have been actually produced ever saw
19 service. A different account of this weapon says: “There is in fact no record of such
20 a gun ever having been built,”⁵³ although there are claims to the contrary. A
21 contemporaneous poet, commenting on ‘Puckle’s Machine Company’, wrote ‘Fear
22

23 ⁴⁹ Ibid., 166.

24 ⁵⁰ Ibid., 166.

25 ⁵¹ Ibid., 220.

26 ⁵² Ibid., 219.

27 ⁵³ Ellis, *The Social History of the Machine Gun*, 13.
28

1 not, my friends, this terrible machine. They're only wounded who have shares
2 therein.”⁵⁴ This weapon “never advanced beyond the prototype stage.”⁵⁵

3 26. In short, it was an experimental weapon designed for military use, and
4 the patent's reference to “DEFENCE” was clearly a reference to military defense,
5 not personal defense. As this account confirms, it was likely never even
6 manufactured beyond perhaps a prototype. It was a failed effort, even though later
7 gun inventors learned from its failure.

8 27. Kopel also cites the example of the Jennings multi-shot flintlock rifle
9 from 1821, capable of firing up to twelve “superposed” shots before reloading.⁵⁶
10 Yet according to *Flayderman's Guide to Antique American Firearms*, its
11 production quantity was so small as to be “unknown” and therefore is “extremely
12 rare,” unsurprising since it utilized fatally defective “superposed” firing (discussed
13 earlier) relying on twelve individual touchholes.⁵⁷ Similar problems plagued or
14 doomed multi-shot flintlock pistols of the early nineteenth century. According to
15 Carl P. Russell: “Flintlock revolving pistols had been given trials and some
16 practical use very early in the nineteenth century, but the loose priming powder in
17 the pan of each cylinder constituted a hazard that was never eliminated.”⁵⁸

18 28. Another example often cited is the Girandoni (or Girardoni) air rifle, a
19 military weapon developed for crack shots in the Austrian army that was capable of

20 ⁵⁴ Winant, *Firearms Curiosa*, 219-21. See also “The Puckle Gun: Repeating
21 Firepower in 1718,” December 25, 2016,
22 <https://www.youtube.com/watch?v=GPC7KiYDshw>.

23 ⁵⁵ Rasenberger, *Revolver*, 3.

24 ⁵⁶ Kopel, “The History of Firearm Magazines and Magazine Prohibitions,”
853.

25 ⁵⁷ Norm Flayderman, *Flayderman's Guide to Antique American Firearms*, 9th
26 ed. (Iola, IA: Gun Digest Books, 2007), 683.

27 ⁵⁸ Carl P. Russell, *Guns on the Early Frontier* (Lincoln, NE: University of
28 Nebraska Press, 1957), 91.

1 firing up to 20 rounds. One of these was taken along on the Lewis and Clark
2 expedition of 1804-1806.⁵⁹ But these guns were a rarity, as they were extremely
3 expensive, fragile, and complex, and few were made—no more than about 1,500.⁶⁰
4 In fact, the rifles never caught on as they proved to be impractical on the battlefield,
5 and even more so for civilian use. To wit: “Leather gaskets needed to be constantly
6 maintained and swelled with water to sustain pressure. Once empty the reservoirs
7 required a significant effort and 1500 strokes to restore full power. A supply wagon
8 was subsequently outfitted with a mounted pump to readily supply soldiers but this
9 negated one of the key features—mobility. The rudimentary fabrication methods of
10 the day engineered weak threading on the reservoir neck and this was the ultimate
11 downfall of the weapon. The reservoirs were delicate in the field and if the riveted
12 brazed welds parted the weapon was rendered into an awkward club as a last
13 resort.”⁶¹ It was pulled from military service by 1815.⁶²

16 ⁵⁹ David Kopel, “The history of magazines holding 11 or more rounds:
17 Amicus brief in 9th Circuit,” *Washington Post*, May 29, 2014,
18 [https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/05/29/the-](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/)
19 [history-of-magazines-holding-11-or-more-rounds-amicus-brief-in-9th-circuit/](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
20 Girandoni air gun taken by Lewis and Clark was never used in combat or battle, but
21 to impress the Native Americans they encountered. Whenever they planned to fire
22 the gun, they were careful to prepare it before encountering Native Americans so
23 that they were not aware of the extensive pre-fire preparations needed. See Stephen
24 E. Ambrose, *Undaunted Courage* (NY: Simon and Schuster, 1996), 158, 160, and
25 passim.

26 ⁶⁰ Mike Markowitz, “The Girandoni Air Rifle,” *DefenseMediaNetwork*, May
27 14, 2013, <https://www.defensemmedianetwork.com/stories/the-girandoni-air-rifle/>.

28 ⁶¹ John Paul Jarvis, “The Girandoni Air Rifle: Deadly Under Pressure,”
GUNS.com, March 15, 2011, [https://www.guns.com/news/2011/03/15/the-](https://www.guns.com/news/2011/03/15/the-girandoni-air-rifle-deadly-under-pressure)
[girandoni-air-rifle-deadly-under-pressure](https://www.guns.com/news/2011/03/15/the-girandoni-air-rifle-deadly-under-pressure).

⁶² Markowitz, “The Girandoni Air Rifle.”

1 29. To take another example, the Volcanic repeating pistol, patented in
2 1854, was said to have the ability to fire up to “ten or greater rounds.”⁶³ The
3 Volcanic Repeating Arms Company was founded in 1855, and it experimented with
4 a number of design innovations. But the company was “short-lived” and went
5 “defunct” in 1866, even though its partners included Horace Smith, Daniel B.
6 Wesson, and Courtlandt Palmer.⁶⁴ Its patent and technological work were
7 important for subsequent developments, especially for Smith and Wesson’s later
8 work, but the actual weapons produced by Volcanic were few, flawed, and
9 experimental,⁶⁵ dubbed “radical defects” by Winchester himself.⁶⁶ In 1857 and
10 1858, Volcanic produced 3,200 “flawed” repeaters, most of which “collected dust
11 for many decades” until the company finally sold them for fifty cents each to
12 employees.⁶⁷

13 30. Another account laboring to establish early gun firing provenance
14 asserts that “[s]emi-automatic technology was developed in the 1880s” with the
15 “Mannlicher rifle. . . generally attributed to be the first semi-automatic rifle.”⁶⁸ Yet
16 this “development” was initially a failure: “Ferdinand von Mannlicher’s Model
17 1885 self-loading rifle design” was “a failure, never seeing anything even
18 resembling mass production.”⁶⁹ The true semi-automatic weapon did not become

19 ⁶³ Declaration of Ashley Hlebinsky, *Miller v. Becerra*, No. 3:19-cv-1537-
20 BEN-JLB, 6 (Plaintiffs’ Trial Exhibit 2).

21 ⁶⁴ Pamela Haag, *The Gunning of America* (NY: Basic Books, 2016), 51-52.

22 ⁶⁵ “Volcanic Repeating Arms,” [https://military-](https://military-history.fandom.com/wiki/Volcanic_Repeating_Arms)
23 [history.fandom.com/wiki/Volcanic_Repeating_Arms](https://military-history.fandom.com/wiki/Volcanic_Repeating_Arms), n.d.; Flayderman,
Flayderman’s Guide to Antique American Firearms, 303-5.

24 ⁶⁶ Quoted in Haag, *The Gunning of America*, 56.

25 ⁶⁷ Haag, *The Gunning of America*, 60.

26 ⁶⁸ Declaration of Ashley Hlebinsky, *Miller v. Becerra*, 8 (Plaintiffs’ Trial
27 Exhibit 2).

28 ⁶⁹ Ian McCollum, “Mannlicher 1885 Semiauto Rifle,” *Forgotten Weapons*,

1 feasible and available until the beginning of the twentieth century, and the primary
2 market was the military.⁷⁰

3 31. The more well-known “pepperbox,” a multi-shot firearm where the
4 number of shots capable of being fired repeatedly coincided with the number of
5 barrels bundled together, found some civilian market popularity in the early 1800s,
6 but it was rapidly eclipsed by the superior Colt revolver. The reason: pepperboxes
7 were “heavy, lumpy, and impractical.”⁷¹ By another account, “because of its small
8 bore, short range, and lack of accuracy, the pepperbox was by no means as
9 satisfactory as a revolver for military use.”⁷² Further, “[t]hey also had a nasty habit
10 of discharging all their barrels at once. No shooter could be certain he would not
11 get two or three innocent bystanders, as well as his intended victim.”⁷³ Indeed, the
12 Colt revolver was “the first widely used multishot weapon,”⁷⁴ although it took
13 decades for this and similar revolvers to catch on.

14 32. Colt’s technological developments notwithstanding, single shot guns
15 were the ubiquitous firearm until after the Civil War, although some long gun
16
17
18
19

20 May 6, 2015, <https://www.forgottenweapons.com/mannlicher-1885-semiauto-rifle/>.

21 ⁷⁰ Philip Schreier, “A Short History of the Semi-Automatic Firearm,”
22 *America’s 1st Freedom*, July 2022, 32-39.

23 ⁷¹ Rasenberger, *Revolver*, 54.

24 ⁷² Lewis Winant, *Pepperbox Firearms* (New York: Greenberg Pub., 1952),
30.

25 ⁷³ Larry Koller, *The Fireside Book of Guns* (NY: Simon and Schuster, 1959),
26 154. By another account, “it was a disconcerting but not uncommon experience to
27 have all six barrels go off in unison.” Winant, *Pepperbox Firearms*, 32.

28 ⁷⁴ Rasenberger, *Revolver*, 401.

1 repeaters appeared late in the Civil War.⁷⁵ Even so, the “standard infantry weapon
2 [in the Civil War] remained the single-shot, muzzle-loaded weapon.”⁷⁶

3 33. As noted, the idea of an available, affordable, reliable multi-shot
4 firearm did not arise until the development of Colt’s multi-shot revolver in the
5 1830s. Indeed, Colt biographer Jim Rasenberger says that Colt’s pistol was the first
6 practical firearm that could shoot more than one bullet without reloading.⁷⁷ Even
7 then, Colt could not readily manufacture multi-shot weapons for many years
8 because he could find no market for them, either from the government or the public.
9 The government, in fact, dismissed such firearms as mere “novelties.”⁷⁸ After an
10 1837 test of Colt’s gun and others the government concluded that it was “entirely
11 unsuited to the general purposes of the service.”⁷⁹ The government also rejected
12 the weapon after tests in 1836, 1840, and 1850. Colt’s early failure to cultivate
13 either a military or a civilian market in the U.S. drove him to bankruptcy and then
14 to market his guns to European governments in the 1840s. The gun made
15 appearances in the pre-Civil War West, yet even during the Civil War, “Colt’s
16 revolver was a sideshow through most of the war. . . .”⁸⁰ And though the Colt-type
17 revolver “had proved itself, the official sidearm of the United States Army [in the
18

19 ⁷⁵ Kopel, “The history of magazines holding 11 or more rounds”; Kennett
20 and Anderson, *The Gun in America*, 112-13.

21 ⁷⁶ Snow and Drew, *From Lexington to Desert Storm*, 90. As Civil War
22 historian James M. McPherson noted, even though some repeating rifles appeared
23 in the Civil War as early as 1863, single-shot muzzle-loaders “remained the
24 principal infantry weapons throughout the war.” *Battle Cry of Freedom* (NY:
Oxford University Press, 1988), 475.

25 ⁷⁷ Rasenberger, *Revolver*, 3-5, 401.

26 ⁷⁸ Pamela Haag, *The Gunning of America* (NY: Basic Books, 2016), 24.

27 ⁷⁹ Rasenberger, *Revolver*, 136.

28 ⁸⁰ *Ibid.*, 390.

1 Civil War] remained a single shot pistol.”⁸¹ It took the Colt’s use during the Civil
2 War to finally spur the post-Civil War proliferation of the Colt-type revolver and
3 similar firearms into society.⁸²

4 34. While inventor Benjamin Henry claims credit for developing the first
5 practical, lever action repeating rifle (patented in 1860), his competitor Winchester
6 “deftly gutted” the Henry Arms Company, coopting it to form the Winchester Arms
7 Company in 1866, paving the way for Winchester’s dominance.⁸³ The Winchester
8 rifle could fire up to fifteen rounds without reloading. Yet the widely known
9 Winchester 1873, “was designed for sale to the Government as a military arm.”⁸⁴ A
10 gun whose legendary status wildly outdistanced its actual production and impact, it
11 was nevertheless an important firearm in the late nineteenth century, although this
12 “quintessential frontier rifle flourished later, in the ‘post-frontier’ early 1900s. Its
13 celebrity biography backdated its diffusion and even its popularity.”⁸⁵ In fact, the
14 slogan stating that the Winchester “won the West” was invented by a Winchester
15 executive as a marketing ploy in 1919.⁸⁶ Additionally, the Winchester was not a
16 semi-automatic firearm; it was a lever-action rifle that required the shooter to
17 manipulate a lever in a forward-and-back motion before each shot. And when the
18 gun was emptied, it had to be manually reloaded, one round at a time.⁸⁷ The
19 Winchester Model 1905, then called a “self-loading” rifle, was a true semi-

20 ⁸¹ Kennett and Anderson, *The Gun in America*, 91.

21 ⁸² Haag, *The Gunning of America*, 34-37, 46-64. As Haag said, “the Civil
22 War saved” the gun industrialists (65).

23 ⁸³ Haag, *The Gunning of America*, 96.

24 ⁸⁴ Koller, *The Fireside Book of Guns*, 112.

25 ⁸⁵ Haag, *The Gunning of America*, 179.

26 ⁸⁶ *Ibid.*, 353.

27 ⁸⁷ Normally, a Remington-type rifle is loaded from a feed ramp on the side of
28 the rifle.

1 automatic firearm. It could receive a five or ten round box magazine, although
2 from 1905 to 1920 only about 30,000 of the guns were made. Even in World
3 War I, soldiers primarily used bolt-action one shot rifles that could fire about
4 twelve rounds per minute.⁸⁸

5 35. With all this, the Winchester was by no means universally embraced
6 by long gun users. Indeed, “a good many westerners would have nothing to do
7 with the early Winchesters or other repeaters, for reasons they considered very
8 sound, and not until the 1880s did the repeating rifle assert its dominance over the
9 single-shot breechloader.”⁸⁹ According to A.C. Gould, writing in 1892, single-shot
10 rifles were: “less complicated, and less liable to get out of order; will shoot a
11 greater variety of ammunition; will shoot uncrimped ammunition, patched or
12 unpatched bullets; will permit the use of a longer barrel; an explosive bullet can be
13 used; a greater range of rear sights on tang can be used.”⁹⁰

14 36. The rise in the circulation of multi-shot handguns in society was
15 accompanied by the rapid spread of concealed carry restrictions (see Exhibits B-E),
16 especially in the post-Civil War period, precisely because of their contribution to
17 escalating interpersonal violence.⁹¹ By the end of the nineteenth century, virtually

18 ⁸⁸ Robert Johnson and Geoffrey Ingersoll, “It’s Incredible How Much Guns
19 Have Advanced Since The Second Amendment,” *Military & Defense*, December
20 17, 2012, <https://finance.yahoo.com/news/incredible-much-guns-improved-since-174927324.html>; Phil Bourjaily, “Blast From the Past: Winchester Model 1905,”
21 *Field & Stream*, January 11, 2019, <https://www.fieldandstream.com/blast-from-past-winchester-model-1905/>.
22

23 ⁸⁹ Louis A. Garavaglia and Charles G. Worman, *Firearms of the American*
24 *West, 1866-1894* (Albuquerque, NM: University of New Mexico Press, 1985), 129.

25 ⁹⁰ Quoted in Garavaglia and Worman, *Firearms of the American West, 1866-*
26 *1894*, 131.

27 ⁹¹ Dickinson D. Bruce, *Violence and Culture in the Antebellum South*
28 (Austin, TX: University of Texas Press, 1979); Randolph Roth, *American Homicide*
(Cambridge, MA: Belknap Press, 2012).

1 every state in the country prohibited or severely restricted concealed gun and other
2 weapons carrying.⁹² It was only in the post-World War I era when multi-shot semi-
3 automatic and fully automatic long guns began to circulate appreciably in society
4 and came to be associated with criminal use that they became a regulatory and
5 public policy concern.

6 37. As noted earlier, the problems with arguments claiming that historical
7 multi-shot weapons were both viable and commonly possessed before the late
8 nineteenth century are two-fold: they misrepresent the actual past of the weapons
9 cited, and even more importantly fail to understand the connection between gun
10 technology developments and the steps leading up to changes in gun-related public
11 policy to regulate threats posed by those developments. As discussed previously,
12 that process has occurred, both historically and in the modern era, through a series
13 of sequential steps.

14 38. First, a new gun or gun technology must be invented. Second, it is
15 then normally patented, noting that there are many steps between a patent, actual
16 gun production, distribution and dissemination. As Lewis Winant sardonically
17 observed, “Many patents are granted for arms that die a-borning.”⁹³ And as gun
18 expert Jack O’Connor wrote, “many types of guns were invented, produced and
19 discarded through the early years of the development of the United States.”⁹⁴
20 Third, weapons development is historically tied to military need and military
21 acquisition, not directly for civilian use or self-defense applications. Military
22 weaponry is developed without consideration of potential civilian use and the
23

24 ⁹² Spitzer, “Gun Law History in the United States and Second Amendment
25 Rights,” 63-67.

26 ⁹³ Winant, *Firearms Curiosa*, 36.

27 ⁹⁴ Jack O’Connor, *Complete Book of Rifles and Shotguns* (NY: Harper &
28 Row, 1961), 42.

1 consequences of dissemination in the civilian market.⁹⁵ Fourth, some military-
2 designed weapons may then spill over into, or be adapted to, civilian markets and
3 use. Fifth, if such weapons then circulate sufficiently to pose a public safety or
4 criminological problem or threat, calls for government regulation or restriction then
5 may lead to gun policy/law changes. This general sequence is echoed in works like
6 the *Buyer's Guide to Assault Weapons*.⁹⁶

7 39. Again, to simply assert or assume that past firearms
8 design/development, invention, or patenting equals commonality, viability, or a
9 measurable presence or impact on society, is a leap in logic without historical
10 foundation. It would be as logical to reject modern governmental regulation of
11 electric power through such government agencies as state power commissions and
12 the Federal Energy Regulatory Commission because no such regulation was
13 enacted around the time of Benjamin Franklin's experiments with electricity in the
14 mid-eighteenth century. The fact that inventors worked on new firearm designs and
15 modifications tells us nothing about the consequences of such designs for society
16 and public policy. And the existence of such designs does not equal general
17 availability, much less societal circulation and use of these weapons. Other
18 weapons subject to government restriction in our history further illustrate these
19 principles.

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21
22
23 ⁹⁵ Note that the third step, and perhaps the second, do not apply to non-
24 firearms weapons discussed here—in particular, the Bowie knife and various clubs.
25 These weapons were mostly not developed for military use, though Bowie knives,
26 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.

27 ⁹⁶ Phillip Peterson, *Buyer's Guide to Assault Weapons* (Iola, IA: Gun Digest
28 Books, 2008), 4-7.

1 **III. HISTORICAL HARDWARE RESTRICTIONS ON KNIVES, BLUNT WEAPONS,**
2 **PISTOLS, AND TRAP GUNS IN THE EIGHTEENTH AND NINETEENTH**
3 **CENTURIES**

4 40. Similar to government regulation of certain types of firearms and
5 ammunition feeding devices in the early twentieth century, which occurred only
6 after the weapons technologies matured, entered the civilian market, and threatened
7 the public through criminal use, government regulation of other weapons typically
8 followed a version of this trajectory around the time of the ratification of the
9 Fourteenth Amendment in the 1860s and even earlier.

10 **A. Historical Restrictions on the Bowie Knife and Similar Long-**
11 **Bladed Knives**

12 41. The Bowie knife is generally credited with having been invented by the
13 brother of adventurer Jim Bowie, Rezin Bowie. The knife was named after Jim
14 Bowie, who reputedly killed one man and wounded another using a “big knife”
15 given to him by his brother in the alternately notorious or celebrated “Sandbar
16 Duel” in 1827.⁹⁷ Bowie died at the Alamo in 1836.

17 42. The “Bowie knife” rapidly became known beginning in the 1830s for the
18 distinctive type of long-bladed and usually single-edged knife with a hand guard
19 identified with Bowie, the man after whom the knife was named. While Bowie
20 knives initially “came in a variety of forms—with or without guards, with
21 differently shaped blades,” they eventually became more standardized as “a large

22 _____
23 ⁹⁷ “Bowie Knife,” *Encyclopedia of Arkansas*, n.d.,
24 <https://encyclopediaofarkansas.net/entries/bowie-knife-2738/>; William C. Davis, *Three Roads to the Alamo* (NY:
25 HarperCollins, 1998), 207-8. Davis persuasively dismisses the claim of a
26 blacksmith, James Black, that he invented or styled the distinctive knife for Rezin
27 Bowie (676–77). David Kopel says, erroneously, that “Jim Bowie used a
28 traditional knife at a famous ‘sandbar fight’ on the lower Mississippi River in
1827.” 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/>. Rezin Bowie had just developed the distinctive knife his brother used in the
fight, so it could not have been “traditional.”

1 knife with a cross guard and a blade with a clipped point.”⁹⁸ The distinctive traits
2 of the Bowie knife are revealed in Robert Abels’ book, *Bowie Knives*, which
3 includes pictures of nearly one hundred such knives made between 1835 and
4 1890.⁹⁹ The Bowie legend, the explosive growth and spread of Bowie-related
5 mythology (only magnified by his death at the Alamo), and the knife’s distinctive
6 features, encouraged its proliferation,¹⁰⁰ referred to by one historian as “the craze
7 for the knives.”¹⁰¹ As was true of other knives with long, thin blades,¹⁰² they were
8 widely used in fights and duels, especially at a time when single-shot pistols were
9 often unreliable and inaccurate.¹⁰³ Indeed, such knives were known as “fighting
10 knives”¹⁰⁴ that were “intended for combat.”¹⁰⁵ In the early nineteenth century “guns
11 and knives accounted for a growing share of the known weapons that whites used to
12 kill whites.”¹⁰⁶ In 1834, for example, a grand jury in Jasper County, Georgia
13 deplored

14 43. The practice which is common amongst us with the young the middle
15 aged and the aged to arm themselves with Pistols, dirks knives sticks & spears
16 under the specious pretence of protecting themselves against insult, when in fact

17
18 ⁹⁸ “Bowie Knife,” *Encyclopedia of Arkansas*, n.d.,
19 <https://encyclopediaofarkansas.net/entries/bowie-knife-2738/>.

⁹⁹ Robert Abels, *Bowie Knives* (NY: Abels, 1979).

20 ¹⁰⁰ Virgil E. Baugh, *Rendezvous at the Alamo* (Lincoln, NE: University of
Nebraska Press, 1985), 39–63.

21 ¹⁰¹ Davis, *Three Roads to the Alamo*, 583.

22 ¹⁰² Other such long-bladed, thin knives of varying configurations typically
23 named in laws barring their carrying included the Arkansas toothpick, the Spanish
stiletto, dirks, daggers, and the like.

24 ¹⁰³ 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,”
25 *Oldwest*, n.d., <https://www.oldwest.org/bowie-knife-history/>; Norm Flayderman,
The Bowie Knife (Lincoln, RI: Andrew Mowbray, 2004), 485.

26 ¹⁰⁴ Roth, *American Homicide*, 218.

27 ¹⁰⁵ Flayderman, *The Bowie Knife*, 59.

28 ¹⁰⁶ Roth, *American Homicide*, 218.

1 being so armed they frequently insult others with impunity, or if resistance is made
2 the pistol dirk or club is immediately resorted to, hence we so often hear of the
3 stabbing shooting & murdering so many of our citizens.¹⁰⁷

4
5 44. Homicide rates increased in the South in the early nineteenth century, as
6 did laws restricting concealed weapons carrying. Dueling also persisted during this
7 time, even as the practice was widely deplored by religious and other groups, in
8 newspapers, by anti-dueling societies and political leaders.¹⁰⁸ Bowie knife writer
9 Norm Flayderman provides abundant and prolific evidence of the early criminal use
10 of Bowie knives in the 1830s, quoting from dozens of contemporaneous newspaper
11 and other accounts, and providing references to literally hundreds of additional
12 articles and accounts attesting to the widespread use of Bowie knives in fights,
13 duels, brawls and other criminal activities.¹⁰⁹ Flayderman concludes that, as early
14 as 1836, “most of the American public was well aware of the Bowie knife.”¹¹⁰
15 (Very much like contemporary assault weapons,¹¹¹ the Bowie knife’s notorious
16 reputation also, if perversely, fanned its sale and acquisition.¹¹²) All this
17 contributed to widespread enactment of laws prohibiting dueling in the states.¹¹³ In
18

19
20 ¹⁰⁷ Quoted in Roth, *American Homicide*, 218–19.

21 ¹⁰⁸ Baugh, *Rendezvous at the Alamo*, 51.

22 ¹⁰⁹ Flayderman, *The Bowie Knife*, 25–64; 495–502.

23 ¹¹⁰ *Ibid.*, 43.

24 ¹¹¹ Ryan Busse, *Gunfight* (NY: Public Affairs, 2021), 12–15, 65; David
25 Altheide, “The cycle of fear that drives assault weapon sales,” *The Guardian*,
March 2, 2013, [https://www.theguardian.com/commentisfree/2013/mar/02/cycle-](https://www.theguardian.com/commentisfree/2013/mar/02/cycle-fear-assault-weapon-sales)
fear-assault-weapon-sales; Rukmani Bhatia, “Guns, Lies, and Fear,” *American*
Progress, April 24, 2019, <https://www.americanprogress.org/article/guns-lies-fear/>.

26 ¹¹² Flayderman, *The Bowie Knife*, 46.

27 ¹¹³ A search for the word “duel” in the Duke Center for Firearms Law
28 database of old gun laws yields 35 results. See
<https://firearmslaw.duke.edu/repository/search-the-repository/>.

1 1839, Congress passed a measure barring dueling in the District of Columbia.¹¹⁴

2 Both pistols and knives were prominently used in such affairs.¹¹⁵

3 45. In the 1840 case of *Aymette v. State*, the Supreme Court of Tennessee
4 upheld the conviction of William Aymette for wearing a Bowie knife concealed
5 under his clothes under a state law of 1837–1838, ch. 137, sec. 2, providing “that, if
6 any person shall wear any bowie-knife, or Arkansas toothpick, or other knife or
7 weapon that shall in form, shape, or size resemble a bowie-knife or Arkansas
8 toothpick, under his clothes, or keep the same concealed about his person such
9 person shall be guilty of a misdemeanor, and, upon conviction thereof, shall be
10 fined in a sum not less than two hundred dollars, and shall be imprisoned in the
11 county jail not less than three months and not more than six months.”¹¹⁶ In its
12 decision, the court concluded that the prohibition against wearing the named
13 weapons was well justified in that they “are usually employed in private broils, and
14 which are efficient only in the hands of the robber and the assassin.”¹¹⁷ The court
15 continued, “The Legislature, therefore, have a right to prohibit the wearing or
16 keeping weapons dangerous to the peace and safety of the citizens. . . .”¹¹⁸ Further,
17 the court added that the state law existed “to preserve the public peace, and protect
18 our citizens from the terror which a wanton and unusual exhibition of arms might
19 produce, or their lives from being endangered by desperadoes with concealed
20 arms. . . .”¹¹⁹

21
22
23 ¹¹⁴ H.R. 8, Joint Resolution Prohibiting Dueling, introduced March 5, 1838,
https://history.house.gov/Records-and-Research/Listing/lfp_032/.

24 ¹¹⁵ Roth, *American Homicide*, 180–83, 210–17.

25 ¹¹⁶ *Aymette v. State*, 21 Tenn. 152, 153 (Tenn. 1840). This case was cited in
District of Columbia v. Heller, 554 U.S. 570 (2008).

26 ¹¹⁷ *Ibid.*, 156.

27 ¹¹⁸ *Ibid.*, 157.

28 ¹¹⁹ *Ibid.*

1 46. Four years later, the Tennessee Supreme Court again dealt with a Bowie
2 knife law violation and challenge. In the case of *Haynes v. Tennessee* (1844),¹²⁰
3 Stephen Haynes was indicted for carrying a concealed Bowie knife. He was
4 convicted of wearing a knife that resembled a Bowie knife but appealed his
5 conviction on the grounds that he was actually carrying a “Mexican pirate knife,”
6 which reputedly had a shorter, narrower blade. (At the trial, witnesses disagreed as
7 to the proper name for the knife in question.) He also argued that the state law, in
8 listing various types of knives including those “similar” to Bowie knives, was “too
9 indefinite” and could therefore lead to “absurd consequences” that “must follow its
10 enforcement. . . .”¹²¹ On appeal, the court upheld his conviction and commended
11 the Tennessee state legislature’s enactment: “The design of the statute was to
12 prohibit the wearing of bowie knives and others of a similar description, which the
13 experience of the country had proven to be extremely dangerous and destructive to
14 human life; the carrying of which by truculent and evil disposed persons but too
15 often ended in assassination.”¹²² The court continued: “The design, meaning, and
16 intent was to guard against the destruction of human life, by prohibiting the wearing
17 [of] heavy, dangerous, destructive knives, the only use of which is to kill. . . .”¹²³
18 The court noted that the state law “wisely provides against bowie knives, Arkansas
19 tooth picks, or any other weapon in form, shape or size, resembling them.”¹²⁴
20 Noting the similarity among knives and the possibility of an unjust outcome where,
21 say, a person might be convicted of carrying a mere pocket knife, the court posed
22 this question: “what is to protect against conviction, when the words of the statute
23 cover the charge, and its true spirit and meaning does not?” Their answer: “the
24 judge and jury who try the case.”¹²⁵ As the author of a book on Bowie knives

25 ¹²⁰ *Haynes v. Tennessee*, 24 Tenn. 120 (1844).

26 ¹²¹ *Haynes v. Tennessee*, 122.

27 ¹²² *Haynes v. Tennessee*, 122.

28 ¹²³ *Haynes v. Tennessee*, 123.

¹²⁴ *Haynes v. Tennessee*, 122.

¹²⁵ *Haynes v. Tennessee*, 123.

1 noted, “the fact that the term ‘bowie knife’ had never been precisely defined did not
2 help his [Haynes’s] case.”¹²⁶

3 47. David Kopel argues that, in addition to *Aymette*, two other state court
4 cases are relevant to the legal status of Bowie knives,¹²⁷ *Nunn v. State* (1846)¹²⁸ and
5 *Cockrum v. State* (1859) (oddly, he does not include the *Haynes* case in his list).¹²⁹
6 *Nunn*, however, involved a man who was prosecuted for carrying a pistol
7 (apparently openly, not concealed), not a knife. A vagary in the state law
8 criminalized concealed carry of various named weapons, including pistols and
9 Bowie knives, whereas a different provision allowed for open carrying of named
10 weapons, including Bowie knives, but failed to include pistols on that list. Noting
11 the “great vagueness” in the statute’s wording, the court reversed the man’s
12 conviction and affirmed the constitutionality of open carry “for the important end to
13 be attained: the rearing up and qualifying a well-regulated militia, so vitally
14 necessary to the security of a free State.” The court also upheld the
15 constitutionality of the concealed carry restrictions. It did not single out or offer
16 any specific comment on Bowie knives, beyond noting in passing that the Georgia
17 law in question was enacted “to guard and protect the citizens of the State against
18 the unwarrantable and too prevalent use of *deadly weapons*”¹³⁰ which obviously
19 included Bowie knives.
20
21

22 ¹²⁶ Paul Kirchner, *Bowie Knife Fights, Fighters, and Fighting Techniques*
23 (Boulder, CO: Paladin Press, 2010), 43.

24 ¹²⁷ Kopel does mention *Haynes* briefly. Kopel, “The legal history of bans on
25 firearms and Bowie knives before 1900,” *The Volokh Conspiracy*, November 20,
26 2022, [https://reason.com/volokh/2022/11/20/the-legal-history-of-bans-on-firearms-
and-bowie-knives-before-1900/](https://reason.com/volokh/2022/11/20/the-legal-history-of-bans-on-firearms-and-bowie-knives-before-1900/); Kopel, “Bowie knife statutes 1837-1899,” *The*
27 *Volokh Conspiracy*, November 20, 2022,
28 <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/>.

¹²⁸ *Nunn v. State*, 1 Ga. 243 (1846), <https://cite.case.law/ga/1/243/>.

¹²⁹ *Cockrum v. State*, 24 Tex. 394 (1859), [https://constitution.org/1-
Constitution/21l/2ndcourt/state/177st.htm](https://constitution.org/1-Constitution/21l/2ndcourt/state/177st.htm).

¹³⁰ *Nunn v. State*, 246. Italics in original.

1 48. The *Cockrum* case involved John Cockrum, who was charged with the
2 murder of his brother-in-law, William Self, with a Bowie knife.¹³¹ Under Texas
3 law, “a homicide, which would otherwise be a case of manslaughter, if committed
4 with a bowie-knife or dagger, shall be deemed murder and punished as such. . . .”¹³²
5 The court upheld the added penalty provision of the law relating to use of a Bowie
6 knife, despite the court’s very expansive interpretation of the right to bear arms, but
7 reversed and remanded the man’s conviction because of an error related to statutory
8 changes and jury instructions.¹³³ It described Bowie knives as “an exceeding
9 destructive weapon,” an “instrument of almost certain death,” and “the most deadly
10 of all weapons in common use.”¹³⁴

11 49. All three cases underscore the courts’ recognition of the dangerous nature
12 of Bowie knives not only by their characterizations of them, but by the fact that
13 they are permissibly treated in the same restrictive and prohibitory manner in law as
14 other dangerous, deadly weapons including pistols and various named clubs.

15 50. The ubiquity of the concern about the criminological consequences of
16 carrying Bowie knives and other, similar long-bladed knives is seen in the
17 widespread adoption of laws barring or restricting these weapons.¹³⁵ In the 1830s,
18 at least six states enacted laws barring the carrying of Bowie knives by name.¹³⁶

20 ¹³¹ <https://www.genealogy.com/ftm/p/i/l/Karen-Pilgrim-TX/WEBSITE-0001/UHP-0254.html>

21 ¹³² *Cockrum v. State*, 394.

22 ¹³³ *Cockrum v. State*, 404. Kopel says, incorrectly, that “Bowie knives. . .
23 were regulated the same as a butcher’s knife.” According to the Duke Center for
24 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.”

25 ¹³⁴ *Cockrum v. State*, 403–04.

26 ¹³⁵ 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.

27 ¹³⁶ A seventh state, Massachusetts, criminalized the carrying of fighting
28 knives using labels that would have included the Bowie knife in an 1836 law. See
Exhibit E.

1 From then to the start of the twentieth century, every state plus the District of
2 Columbia (with the sole exception of New Hampshire) restricted Bowie knives: a
3 total of at least 42 states (including the District of Columbia) barred or restricted
4 Bowie knives by name; and another 8 states enacted laws barring the category or
5 type of knife embodied by the Bowie knife but without mentioning them by name
6 (see Exhibits C and E) totaling 49 states plus the District of Columbia.¹³⁷ Several
7 states banned the possession of Bowie knives outright, and others imposed taxes on
8 the ability for individuals to acquire or possess them (see Exhibit H). The
9 desirability and utility of concealed-carry restrictions were precisely that they
10 pushed dangerous weapons out of public spaces and places, improving public safety
11 through the deterrent and punishment effects of such laws, and also discouraging
12 the settlement of private grievances and disputes in public through weapons-fueled
13 violence.

14 51. States relied on a variety of regulatory techniques to suppress Bowie
15 knife carrying: 29 states enacted laws to bar their concealed carry; 15 states barred
16 their carry whether concealed or openly; 7 states enacted enhanced criminal
17 penalties for those who used the knives to commit a crime; 4 states enacted
18 regulatory taxes attached to their commercial sale; 3 states imposed a tax for those
19 who owned the knives; 10 states barred their sale to specified groups of people; and
20 4 states enacted penalties for brandishing the knives (see Exhibit H).

21 52. The extensive and ubiquitous nature of these Bowie knife prohibitions
22 raises a further question: given the universal agreement that these knives were
23 dangerous, why not simply ban their possession outright? The answer is two-fold.
24 First, America was a developing nation-state in the nineteenth century and the
25 American states, no less than the national government. State governments did not
26

27 ¹³⁷ Bowie law enactment by decade: 1830s: 6 states; 1840s: 4 states; 1850s:
28 11 states; 1860s: 13 states; 1870s: 19 states; 1880s: 20 states; 1890s: 21 states;
1900s: 13 states. See Exhibits C and E.

1 yet possess the powers, tools, or resources to enact, much less implement, any
2 measure as sweeping as a knife ban, especially since knives are technologically
3 very simple to produce. After all, the front-line administrative entity on which we
4 today rely for law enforcement, the police, barely existed (in the way we think of it
5 today) in the early nineteenth century (up to this time policing fell to a haphazard
6 mix of the watch system, constables, militias, and vigilantes). Modern police forces
7 only came in to being in a handful of large cities before the Civil War.¹³⁸ Second,
8 the chief remedy enacted by the states to address the problem of knife fighting was
9 far more feasible: to bar the carrying of knives, along with the other two categories
10 of weapons that also threatened public safety, clubs and pistols. The fact that all
11 three types of weapons were consistently treated together is conclusive evidence
12 that all were considered so dangerous and inimical to public safety that anti-carry
13 laws bundled them together.

14 **B. Historical Restrictions on Clubs and Other Blunt Weapons**

15 53. A very similar and analogous set of hardware restrictions was enacted
16 regarding clubs and other blunt weapons. See Exhibits C and E. Nearly all were
17 anti-carry laws, which also generally included pistols and knives. As the table in
18 Exhibit C shows, at least six distinct types of clubs and blunt objects were regulated
19 in the United States. Notably, every single state in the nation (except for New
20 Hampshire) had laws restricting one or more types of clubs.

21 54. Among the six types of clubs regulated under state laws in the United
22 States, at least 15 states barred bludgeon carrying. A bludgeon is a short stick with
23

24
25 ¹³⁸ Chris McNab, *Deadly Force* (Oxford, Great Britain: Osprey Publishing,
26 2009), 13-24. Boston created a police force in 1838, New York City created a
27 standing police force in 1845, followed by Chicago in 1851, Philadelphia in 1854,
28 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.

1 a thickened or weighted end used as a weapon.¹³⁹ The earliest state anti-bludgeon
2 law was in 1799; 12 such state laws were enacted in the 1700s and 1800s, and 4 in
3 the early 1900s (as with each of these chronological categories, the state law total
4 exceeds the total number of states because some states enacted the same or similar
5 laws in multiple centuries).

6 55. A billy (sometimes spelled billie) club is a heavy, hand-held rigid
7 club,¹⁴⁰ usually made of wood, plastic, or metal,¹⁴¹ that is traditionally carried by
8 police, often called a nightstick or baton.¹⁴² As noted similarly in this Court's prior
9 ruling in this case, "[a]lthough the word 'baton' is not included in the statutory
10 language, it has long been held that the statute encompasses a variety of
11 bludgeoning instruments."¹⁴³ Escobar cites an early reference to the billy club in an
12 1854 New Orleans newspaper article in the *Daily True Delta* that referred to "police
13 armed with batons,"¹⁴⁴ a synonym for a billy club. As this reference suggests,
14 police have long adopted the billy club, or similar striking implements, as part of
15 their on-duty weaponry. At least 17 states had anti-billy club laws, totaling 46
16 laws; the earliest law appears to have been enacted in Kansas in 1862,¹⁴⁵ followed

17
18 ¹³⁹ Merriam-Webster, available at <https://www.merriam-webster.com/dictionary/bludgeon>.

19 ¹⁴⁰ Some versions were made to have some flexibility to increase their
striking power. See Escobar, *Saps, Blackjacks and Slungshots* at 118-19.

20 ¹⁴¹ Merriam Webster, available at <https://www.merriam-webster.com/dictionary/billy%20club>. Escobar discusses a Civil War veteran and
21 later police officer, Edward D. Bean, who experimented with various types of billy
22 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.
23 Escobar, *Saps, Blackjacks and Slungshots* at 118. One of the earliest references to a
"billy" was an 1857 newspaper article describing "an indiscriminate attack with
24 slung-shot, billies, clubs, &c." "Local Intelligence," *Delaware Republican*,
June 15, 1857, available at <https://bit.ly/3V9nVO7>.

25 ¹⁴² Escobar, *Saps, Blackjacks and Slungshots* at 2, 69-70, 105, 113-30.

26 ¹⁴³ *Fouts v. Bonta*, 561 F.Supp.3d 941, 944 (2021).

27 ¹⁴⁴ Escobar, *Saps, Blackjacks and Slungshots* at 105.

28 ¹⁴⁵ C. B. Pierce, "Charter and Ordinances of the City of Leavenworth, with an
Appendix" at 45, image 45 (1863) available at *The Making of Modern Law*:

1 by a New York law in 1866.¹⁴⁶ Fourteen states enacted such laws in the 1800s; 12
2 states did so in the early 1900s.

3 56. At least 14 states barred the carrying of “clubs” more generically,
4 without specifying the type. The oldest anti-club law was enacted in 1664; seven
5 states enacted these laws in the 1600s-1700s, six states in the 1800s, and two in the
6 early 1900s.

7 57. Anti-slungshot laws were enacted by 43 states, with 71 laws enacted in
8 the 1800s and 12 in the 1900s. A slungshot (or slung shot), also referred to as “a
9 type of blackjack,”¹⁴⁷ is a hand-held weapon for striking that has a piece of metal or
10 stone at one end attached to a flexible strap or handle that was developed roughly in
11 the 1840s (the first “known use” of slungshot was 1842¹⁴⁸). By one account,
12 “[s]lungshots were widely used by criminals and street gang members in the 19th
13 Century. They had the advantage of being easy to make, silent, and very effective,
14 particularly against an unsuspecting opponent. This gave them a dubious
15 reputation, similar to that carried by switchblade knives in the 1950s, and they were
16 outlawed in many jurisdictions. The use as a criminal weapon continued at least up
17 until the early 1920s.”¹⁴⁹ Robert Escobar concurs that slungshots and blackjacks
18 “were a regular part of criminal weaponry. . . and gangsters could be merciless in
19 their use.”¹⁵⁰

20
21

Primary Sources, 1862.

22 ¹⁴⁶ Montgomery Hunt Throop, “The Revised Statutes of the State of New
23 York” at 2512 (Vol. 3, 1882); N.Y. L. 1866, ch. 716.

24 ¹⁴⁷ Escobar, *Saps, Blackjacks and Slungshots* at 228.

25 ¹⁴⁸ Merriam Webster, available at [https://www.merriam-](https://www.merriam-webster.com/dictionary/slungshot)
[webster.com/dictionary/slungshot](https://www.merriam-webster.com/dictionary/slungshot). Escobar agrees with this rough date. See *Saps,*
Blackjacks and Slungshots at 67.

26 ¹⁴⁹ “Slungshot,” available at [https://military-history.fandom.com/wiki/](https://military-history.fandom.com/wiki/Slungshot)
27 [Slungshot](https://military-history.fandom.com/wiki/Slungshot).

28 ¹⁵⁰ Escobar, *Saps, Blackjacks and Slungshots* at 86.

1 58. In a criminal case considered the most famous of those involving
2 lawyer Abraham Lincoln, the future president defended a man charged with
3 murdering another using a slung shot. In the 1858 trial of William “Duff”
4 Armstrong, Lincoln succeeded in winning Armstrong’s acquittal.¹⁵¹

5 59. These weapons were viewed as especially dangerous or harmful when
6 they emerged in society, given the ubiquity of state laws against carrying them
7 enacted after their invention and their spreading use by criminals and as fighting
8 implements. These devices were invented and appeared in society during an
9 identifiable period of time in the mid-nineteenth century, sparking subsequent wide-
10 ranging prohibitions. The earliest anti-Slungshot law was enacted in 1850; 43
11 states legislated against them in the 1800s (including the District of Columbia), and
12 11 states in the early 1900s (note this incorporates multiple laws enacted in more
13 than one century by a few states).

14 60. Sandbags, also known as sand clubs, were also a specific focus in anti-
15 carry laws as well. Consisting of nothing more than sand poured into a bag, sack,
16 sock, or similar tube-shaped fabric (although the weight could also be something
17 dense and heavy, like a lock in the end of a sock),¹⁵² their particular appeal was that
18 they could be dispensed with by simply pouring the sand out, leaving nothing more
19 than an empty cloth bag. (Alternately, they could be made heavier by adding water
20 to the sand.) The first anti-sandbag law was 1866, with 10 states enacted such
21 laws—7 in the 1800s and 7 in the early 1900s. Only 4 states did not have any

22
23 ¹⁵¹ Lincoln was able to discredit the testimony of a witness who claimed to
24 see Armstrong strike the victim with a slung shot at night because of the full moon.
25 Lincoln used as evidence an Almanac to prove that on the night in question, there
26 was no full moon. Judson Hale, “When Lincoln Famously Used the Almanac,”
27 *Almanac*, May 4, 2022, available at [https://www.almanac.com/abraham-lincoln-](https://www.almanac.com/abraham-lincoln-almanac-and-murder-trial)
28 [almanac-and-murder-trial](https://www.almanac.com/abraham-lincoln-almanac-and-murder-trial).

26 ¹⁵² Ferris Law: Dangerous Weapons in Nevada, available at
27 [https://www.ferrislawnv.com/criminal-defense/weapons-offenses/dangerous-](https://www.ferrislawnv.com/criminal-defense/weapons-offenses/dangerous-weapons/)
28 [weapons/](https://www.ferrislawnv.com/criminal-defense/weapons-offenses/dangerous-weapons/). See also Escobar, *Saps, Blackjacks and Slungshots* at 20-22. Escobar
dates the earliest reference to sandbags as weapons to the 1600s (*id.*, at 22).

1 prohibitions in any of these six categories, but 3 of those 4 (Montana, Ohio, and
2 Washington State) had blanket legislative provisions against the carrying of any
3 concealed/dangerous/deadly weapons. One state, New Hampshire, may not have
4 enacted such a law during this time but did at some point.¹⁵³

5 61. California has its own record of restricting or prohibiting clubs and
6 similar blunt objects, including billy clubs, used in fights and attacks. As early as
7 1849, the law incorporating the city of San Francisco said that: “[I]f any person
8 shall have upon him any pistol, gun, knife, dirk, *bludgeon*, or other offensive
9 weapon, with intent to assault any person, every such person, on conviction, shall
10 be fined not more than one hundred dollars or imprisoned in the county jail not
11 more than three months.”¹⁵⁴ An 1853 California state law criminalized the carrying
12 of a bludgeon (among other named weapons) “with intent to assault any
13 person. . . .”¹⁵⁵ An 1864 law criminalized the carrying or wearing of a “slungshot,
14 or other dangerous or deadly weapon concealed. . . .”¹⁵⁶ A similar law was enacted
15

16 ¹⁵³ Up to 2010, New Hampshire had this law on the books: “159:16 Carrying
17 or Selling Weapons. Whoever, except as provided by the laws of this state, sells,
18 has in his possession with intent to sell, or carries on his person any stiletto, switch
19 knife, blackjack, dagger, dirk-knife, slung shot, or metallic knuckles shall be guilty
20 of a misdemeanor; and such weapon or articles so carried by him shall be
21 confiscated to the use of the state.” In 2010, the law was amended when it enacted
22 HB 1665 to exclude stilettos, switch knives, daggers, and dirk-knives. *Compare*
23 N.H. Rev. Stat. § 159:16, with 2010 New Hampshire Laws Ch. 67 (H.B. 1665).

24 ¹⁵⁴ 1849 Cal. Stat. 245, An Act to Incorporate the City of San Francisco,
25 § 127 (*italics added*).

26 ¹⁵⁵ S. Garfielde, *Compiled Laws of the State of California: Containing All the*
27 *Acts of the Legislature of a Public and General Nature, Now in Force, Passed at*
28 *the Sessions of 1850-51-52-53* at 663-64 (Benicia, CA: S. Garfielde 1853).

¹⁵⁶ 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” at 261, image 272 (1868) available at
The Making of Modern Law: Primary Sources, 1864, § 1.

1 for the city of Los Angeles in 1878,¹⁵⁷ and for the city of Fresno in 1896.¹⁵⁸ A 1917
2 state law penalized anyone who “attempts to use, or who with intent to use the same
3 unlawfully against another, carries or possesses . . . any instrument or weapon
4 commonly known as a blackjack, slungshot, billy, sandclub, [or] sandbag. . . .”¹⁵⁹
5 A 1923 law said that “every person who within the State of California manufactures
6 or causes to be manufactured, or who imports into the state, or who keeps for sale,
7 or offers or exposes for sale, or who gives, lends, or possesses any instrument or
8 weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub,
9 sandbag, or metal knuckles”¹⁶⁰ shall have committed a felony.

10 **C. Historical Restrictions on Pistol Carrying**

11 62. Carry restriction laws were widely enacted from the 1600s through the
12 start of the twentieth century, spanning over three centuries. As early as 1686, New
13 Jersey enacted a law against wearing weapons because they induced “great fear and
14 quarrels.”¹⁶¹ Massachusetts followed in 1750. In the late 1700s, North Carolina
15 and Virginia passed similar laws. In the 1800s, as interpersonal violence and gun
16 carrying spread, 43 states joined the list; 3 more did so in the early 1900s (see
17 Exhibit B). The eighteenth century laws generally restricted more general carrying
18 of firearms, usually if done in crowded places, or in groups of armed people. The
19 laws of the nineteenth century forward generally restricted concealed weapons
20 carrying. Among the earliest laws criminalizing the carrying of concealed weapons
21

22 ¹⁵⁷ William. M. Caswell, “Revised Charter and Compiled Ordinances and
23 Resolutions of the City of Los Angeles” at 85, image 83 (1878) available at *The Making of Modern Law: Primary Sources*, 1878.

24 ¹⁵⁸ L. W. Moultrie, “Charter and Ordinances of the City of Fresno” at 30,
25 image 28 (1896) available at *The Making of Modern Law: Primary Sources*;
Ordinances of the City of Fresno, § 8.

26 ¹⁵⁹ 1917 Cal. Sess. Laws 221-225.

27 ¹⁶⁰ 1923 Cal. Stat. 695.

28 ¹⁶¹ The Grants, Concessions, And Original Constitutions of The Province of
New Jersey 290 (1881).

1 was that of Louisiana in 1813. Concealed carry laws normally targeted pistols as
2 well as the types of knives and various types of clubs discussed here (see Exhibit E
3 for text of most such laws).

4 **D. Historical Restrictions on Trap Guns**

5 63. Not to be confused with firearms used in trapshooting, trap guns were
6 devices or contraptions rigged in such a way as to fire when the owner need not be
7 present. Typically, trap guns could be set to fire remotely (without the user being
8 present to operate the firearm) by rigging the firearm to be fired with a string or
9 wire when tripped.¹⁶² This early law from New Jersey in 1771 both defines and
10 summarizes the problem addressed by this law:

11 Whereas a most dangerous Method of setting Guns has too much
12 prevailed in this Province, Be it Enacted by the Authority aforesaid, That
13 if any Person or Persons within this Colony shall presume to set any
14 loaded Gun in such Manner as that the same shall be intended to go off or
15 discharge itself, or be discharged by any String, Rope, or other
16 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.¹⁶³

17 64. Also sometimes referred to as “infernal machines,”¹⁶⁴ the term trap gun
18 came to encompass other kinds of traps designed to harm or kill those who might
19 encounter them, including for purposes of defending property from intruders.
20 Unlike the other weapons restrictions examined here, opinion was more divided on
21

22 ¹⁶² See Spitzer, “Gun Law History in the United States and Second
23 Amendment Rights,” 67.

24 ¹⁶³ 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.

25 ¹⁶⁴ E.g. 1901 Utah Laws 97-98, An Act Defining an Infernal Machine, and
26 Prescribing Penalties for the Construction or Contrivance of the Same, or Having
27 Such Machine in Possession, or Delivering Such Machine to Any Person . . . , ch.
28 96, §§ 1-3.

1 the relative merits or wisdom of setting such devices, with some arguing that
2 thieves or criminals hurt or killed by the devices had it coming,¹⁶⁵ though the
3 weight of opinion seemed mostly against such devices.¹⁶⁶ Those who set gun traps
4 typically did so to defend their places of business, properties, or possessions. This
5 1870 newspaper account from an incident in New York City provides an example
6 where a burglar was killed by a gun-trap set by a shopkeeper, who was then
7 prosecuted: “As there is a statute against the use of such infernal machines, which
8 might cause loss of life to some innocent person, the jury censured Agostino.”
9 After the verdict the man continued to be held under \$2,000 bail.¹⁶⁷

10 65. Inevitably, however, the traps sometimes wound up hurting or killing
11 innocents, even including the person who set the trap. For example, this 1891
12 newspaper account from Chillicothe, Missouri illustrated the problem: “George
13 Dowell, a young farmer, was fined \$50 under an old law for setting a trap-gun.
14 Dowell set the gun in his corn-crib to catch a thief, but his wife was the first person
15 to visit the crib and on opening the door was shot dead.”¹⁶⁸

16 66. In all, at least 16 states had anti-trap gun laws (see Exhibits B and F).
17 The earliest such law encountered was the 1771 New Jersey law (above). Nine

18 ¹⁶⁵ For example, this small item appeared in the Bangor (Maine) Daily Whig
19 on October 27, 1870: “A burglar while attempting to break into a shop in New
20 York, Monday night, had the top of his head blown off by a trap-gun so placed that
21 it would be discharged by any one tampering with the window. A few such
22 ‘accidents’ are needed to teach the thieves who have lately been operating in this
city, a lesson.”

23 ¹⁶⁶ This is my observation based on my reading of historic newspaper
24 accounts from the late 1800s, and from the number of anti-trap gun laws enacted.
25 As policing became more consistent, professional, and reliable, support for
vigilante-type actions like setting trap guns seems to have declined.

26 ¹⁶⁷ . “The Man Trap,” *The Buffalo Commercial*, November 1, 1870; from the
N.Y. Standard, October 29, 1870, <https://bit.ly/3yUSGNF>. See Exhibit G.

27 ¹⁶⁸ “Shot by a Trap-Gun,” *South Bend Tribune*, February 11, 1891,
28 <https://bit.ly/3CtZsfk>. See Exhibit G.

1 laws were enacted in the 1700s-1800s, and 9 in the early 1900s (counting states that
2 enacted multiple laws across the centuries).

3 CONCLUSION

4 67. What does the law say, and what should the law be, regarding the
5 regulation of firearms and other harmful or dangerous weapons and accessories, in
6 the light of the Supreme Court's ruling in the *Bruen* decision? Given the
7 importance of history, especially, though not limited to, the founding era and the
8 Reconstruction era, the lesson is abundantly clear. Firearms and other dangerous
9 weapons were subject to remarkably strict, consistent, and wide-ranging regulation
10 throughout our history when they entered society, proliferated, and resulted in
11 violence, harm, or contributed to criminality. This historical record from the 1600s
12 through the early twentieth century, as seen in the examples examined here, is even
13 more remarkable given that the United States was an evolving and developing
14 nation-state that could not claim to have reached maturity until the twentieth
15 century. The historical record summarized here makes clear that contemporary
16 restrictions among the states pertaining to assault weapons and large capacity
17 ammunition magazines are merely the latest iteration of a centuries-long tradition of
18 weapons regulations and restrictions. Gun ownership is as old as the country. But
19 so are gun and other dangerous weapons laws, which have adapted to changes in
20 threats to public safety.

21
22 I declare under penalty of perjury that the foregoing is true and correct.

23 Executed on January 6, 2023 at Cortland, New York.

24
25 _____
26 Robert Spitzer
27
28

EXHIBIT A

September 2022

Curriculum Vitae

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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.
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).

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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.

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"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.

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.

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Power, the Presidency, and the Preamble, by Robert M. Saunders, Presidential Studies Quarterly, December 2002.

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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).

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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

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			

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.”

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				
New Jersey	1771	1686	1927, 1934		1920, 1927
New Mexico		1852, 1853			
New York	1870 ⁷	1891	1931, 1933		

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 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

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	16	50	31	8–11	23

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.

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

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/ Dangerous 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	
Florida	1835, [†] 1838 ,1847,1868 ,1893 [†]		1888		1868, 1888		1887	

¹ In addition to state laws, this chart provides the year of enactment of local ordinances adopted within the states.

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 [†]			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, 1871,1881, 1893				1879, 1882, 1893		1821	
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	44	17	79	21	66	24

SOURCE: <https://firearmslaw.duke.edu/repository/search-the-repository/>

[†] States that prosecuted/regulated/barred knives more generally without specifically mentioning Bowie knives.

EXHIBIT D

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.

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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 with 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” applies 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, for 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, and 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

EXHIBIT E

DANGEROUS WEAPONS LAWS

ALABAMA

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 Arkansasaw [sic] Tooth-picks, or either or any knife or weapon that shall in form, shape or size, resemble a Bowie-Knife or Arkansasaw [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 Permanent 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 or 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 seizer, for his 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 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 seisor 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. . .

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.

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.

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 guiltily 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

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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 pisol 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.

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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

¹ See http://www.supremecourt.gov/DocketPDF/18/18-280/99640/20190514123503867_Ch 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_Chables%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 seisor 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 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 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

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.

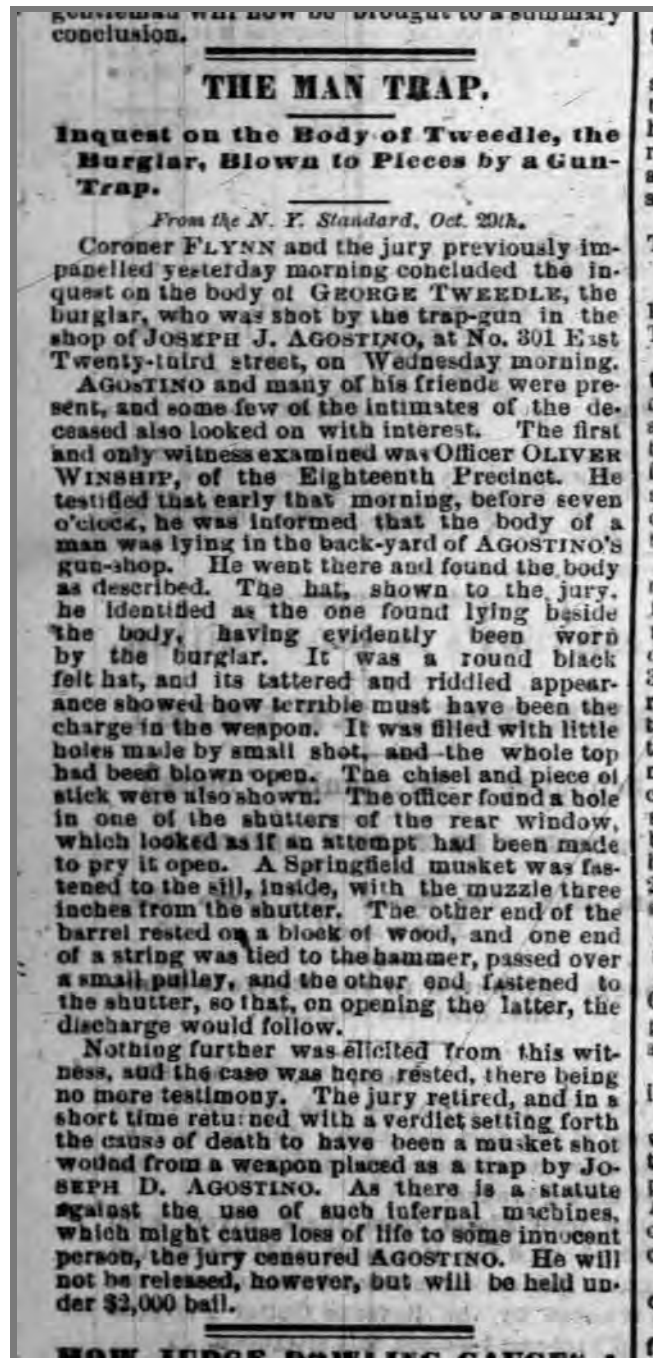
Dangerous or Unusual Weapons | Wisconsin | 1872

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[.]

EXHIBIT G



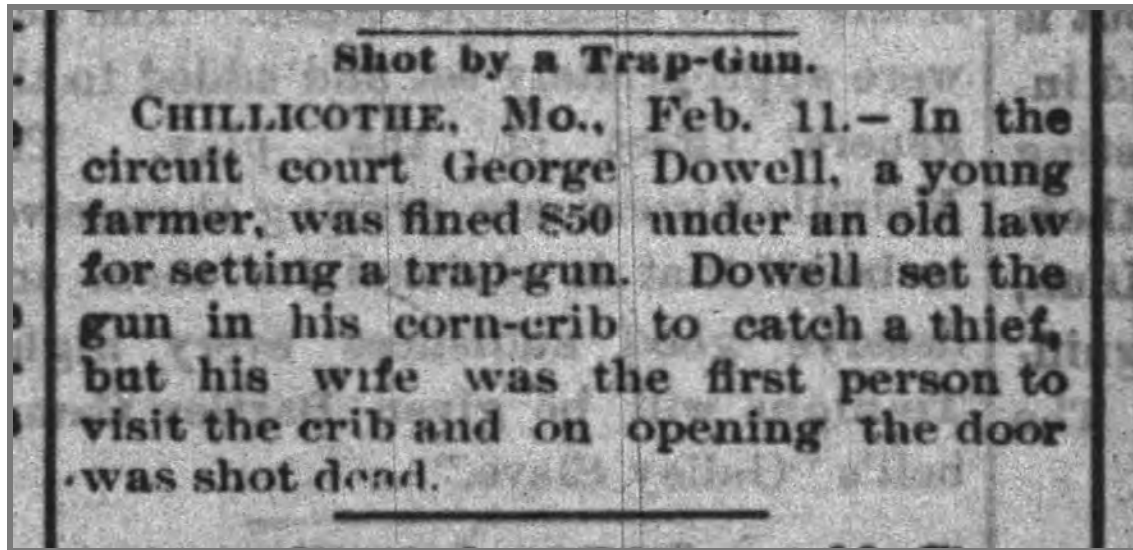


EXHIBIT H

EXHIBIT H: BOWIE KNIFE LAWS BY TYPE¹

STATE	No Concealed Carry	No Carry	Greater Criminal Penalty	Tax/Punish for Sale	Tax Ownership	No Sale to Barred Groups ²	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				1838 ³			
Georgia	1837 ⁴ ,1873			1837 ⁵		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	

¹ Table excludes laws that punish carry/use of “knives” or “sharp or dangerous weapons” but do not mention Bowie knives by name.

² Barred groups included Native Americans/Indians, African Americans/Enslaved, minors.

³ 1838 Fla. Laws ch. 24, p. 36 (Feb. 10, 1838). See <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/>

⁴ A Compilation of the Penal Code of the State of George with the Forms of Bills of Indictment Necessary in Prosecutions Under It and the Rules of Practice, pp. 210-211, <https://dlg.galileo.usg.edu/georgiabooks/pdfs/gb0439.pdf>.

⁵ *Ibid*.

Louisiana	1855	1870					
Maine							
Maryland	1872,1884 1886,1890						
Massachusetts							
Michigan	1891						
Minnesota	1884						
Mississippi	1878,1896 ⁶		1837,1838		1841 ⁷		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	1846 ⁸	
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	1869,1881	1838,1856	1838,1867		1856,1867	

⁶ 1896 Miss. L. chap. 104, pp. 109-10. See <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/>.

⁷ 1841 Miss. Chap. 1, p. 52. See <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/>.

⁸ 1846 N.C. L. chap. 42. See <https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/>.

	1867	1893					
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.