

No. 20-843

---

---

**In the  
Supreme Court of the United States**

---

New York State Rifle & Pistol Association, *et al.*,

*Petitioners,*

v.

Kevin P. Bruen, in His Official Capacity as  
Superintendent of New York State Police, *et al.*,

*Respondents.*

---

On Writ of Certiorari to the United States  
Court of Appeals for the Second Circuit

---

**BRIEF OF *AMICI CURIAE*  
LAW ENFORCEMENT GROUPS AND STATE AND  
LOCAL FIREARMS RIGHTS GROUPS  
IN SUPPORT OF PETITIONERS  
(*AMICI* LISTED ON INSIDE COVER)**

---

DAN M. PETERSON  
DAN M. PETERSON PLLC  
3925 CHAIN BRIDGE ROAD, STE. 403  
FAIRFAX, VIRGINIA 22030  
(703) 352-7276  
dan@danpetersonlaw.com

July 20, 2021

---

---

The following seventeen law enforcement groups and state and local firearms rights groups are *amici curiae* in this case:

National Sheriffs' Association  
New York State Sheriffs' Association  
National Association of Chiefs of Police  
Western States Sheriffs' Association  
California State Sheriffs' Association  
International Law Enforcement Educators and  
Trainers Association  
Law Enforcement Legal Defense Fund  
International Association of Law Enforcement  
Firearms Instructors, Inc.  
Bridgeville Rifle and Pistol Club, Ltd.  
Delaware State Sportsmen's Association  
Gun Owners' Action League Massachusetts  
Gun Owners of California  
Hawaii Rifle Association  
Maryland State Rifle & Pistol Association  
Vermont Federation of Sportsmen's Clubs  
Vermont State Rifle & Pistol Association  
Virginia Shooting Sports Association

**TABLE OF CONTENTS**

	<b>Page</b>
TABLE OF AUTHORITIES .....	iii
INTEREST OF <i>AMICI CURIAE</i> .....	1
SUMMARY OF ARGUMENT.....	4
ARGUMENT .....	6
I. RECOGNIZING THE SECOND AMENDMENT RIGHT OF ORDINARY, LAW-ABIDING CITIZENS TO CARRY HANDGUNS FOR LAWFUL PURPOSES CREATES LITTLE OR NO SAFETY RISK .....	8
A. New York’s extremely restrictive licensing system prevents most New Yorkers from exercising their Second Amendment rights.....	8
B. Thirty years’ experience with increased gun ownership and liberalized carry laws has not led to increased crime.....	10
C. Concealed carry permit holders in “shall-issue” states are remarkably law-abiding .....	13

D. Most homicides and non-fatal shootings are committed by individuals with criminal records who are ineligible to possess firearms.....	15
E. Social science studies do not establish that allowing carry under shall-issue or constitutional carry regimes poses a threat to public safety .....	17
F. Recognizing a right to carry outside the home does not cause mass shootings, but stops them .....	22
II. CITIZENS MUST BE THEIR OWN FIRST RESPONDERS TO WARD OFF CRIMINAL ATTACK.....	25
A. Countless lives are protected each year by the ability to carry firearms outside the home.....	25
B. Law enforcement overwhelmingly supports the right of law-abiding citizens to carry concealed firearms .....	30
C. The outbreak of murders and shootings in 2020 underscores the need for individual self-defense .....	32
CONCLUSION .....	36

## TABLE OF AUTHORITIES

	Page
<b>CASES</b>	
<i>District of Columbia v. Heller</i> 554 U.S. 570 (2008).....	4, 6
<i>Kuck v. Danaher</i> , 822 F. Supp.2d 109 (D. Conn. 2011).....	9
<i>Moore v. Madigan</i> , 702 F.3d 933 (7 <sup>th</sup> Cir. 2012) .....	23
<i>NYSRPA v. City of New York</i> , 140 S.Ct. 1525 (2020).....	9
<i>People v. Aguilar</i> , 2 N.E.3d 321 (Ill. 2013).....	23
<i>State v. Rosenthal</i> , 55 A. 610 (Vt. 1903).....	7
<b>CONSTITUTIONS AND STATUTES</b>	
U.S. CONST. AMEND. II.....	<i>passim</i>
18 U.S.C. § 922(g) .....	15
18 U.S.C § 926B .....	30
18 U.S.C. § 926C .....	30
Conn. Gen. Stat. § 29–28(b).....	9
Fla. Stat. § 790.06 .....	14

N.Y. Penal Law § 400.00.1(b) .....8  
N.Y. Penal Law § 400.00.1(n) .....8  
N.Y. Penal Law § 400.00.2(f) .....8

**OTHER AUTHORITIES**

Abusaid, Shaddi, *After historically deadly 2020, Atlanta homicides are up nearly 60% in 2021*, ATLANTA JOURNAL-CONSTITUTION (June 11, 2021) ..35

BATFE, COMMERCE IN U.S. ANNUAL STATISTICAL UPDATE 2020 .....10

BATFE, ANNUAL FIREARMS MANUFACTURING AND EXPORT REPORT YEAR 2019 FINAL .....11

Bartozzi, Joe, *Taking Stock of Record-Setting 2020 Firearm Year*, NSSF (Jan. 7, 2021) .....36

Branas, Charles C., *et al.*, *Investigating the Link Between Gun Possession and Gun Assault*, 99 Am. J. Pub. Health 2034 (2009) .....29

Calfas, Jennifer & Gajanan, Mahita, *What to Know About the South Texas Church Shooting*, TIME (Nov. 6, 2017) .....23

Cassell, Paul G., <i>Explaining the Recent Homicide Spikes in U.S. Cities: The "Minneapolis Effect" and the Decline in Proactive Policing</i> , 33 Fed. Sent'g Rep. 83 (2020) .....	32
CBSPHILLY.COM, <i>Gunman Shot Dead Inside West Philadelphia Barbershop</i> , (Mar. 22, 2015) .....	24
CNN, <i>Security Guard Who Stopped Shooter Credits God</i> , (Dec. 10, 2007) .....	23
Collins, David, <i>BPD analysis uncovers revealing information about murder victims, suspects</i> , WBAL-TV (Jan. 2, 2020).....	16
COOK, PHILIP & LUDWIG, JENS, GUNS IN AMERICA: RESULTS OF A COMPREHENSIVE NATIONAL SURVEY OF FIREARMS OWNERSHIP AND USE (1996) .....	26
Crifasi, Cassandra K. <i>et al.</i> , <i>Association Between Firearm Laws and Homicide in Urban Counties</i> , 95 J. Urban Health 383 (2018) .....	20
Donohue, John <i>et al.</i> , <i>Right-to-Carry Laws and Violent Crime: A Comprehensive Assessment Using Panel Data and a State-Level Synthetic Control Analysis</i> , 16 J. Empirical Legal Stud. 198 (2019).....	19
English, William, <i>2021 National Firearms Survey</i> (Jul. 14, 2021) .....	6, 26, 27, 28

English, William, <i>The Right to Carry Has Not Increased Crime: Improving an Old Debate Through Better Data on Permit Growth Over Time</i> (Jul. 14, 2021) .....	19
FBI UCR (2000) Table 1, Index of Crime United States, 1981-2000 .....	12
FBI UCR (2010) Table 1, Crime in the United States by Volume and Rate per 100,000 Inhabitants, 1991-2010 .....	12
FBI UCR (2019) Table 8, Expanded Homicide Data Murder Victims by Weapon, 2015-2019 .....	28
FBI UCR (2019) Table 1, Crime in the United States by Volume and Rate per 100,000 Inhabitants, 2000-2019 .....	12
Fearnow, Benjamin, <i>Texas Allows Guns in Churches, Schools After Firearm Access Laws Expanded, Effective September 1</i> , NEWSWEEK (Sep. 1, 2019) .....	23
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, APPLICATIONS AND DISPOSITIONS BY COUNTY JULY 1, 2020 –JUNE 30, 2021 .....	15
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, CONCEALED WEAPON OR FIREARM LICENSE SUMMARY REPORT, OCTOBER 1, 1987-JUNE 30, 2021.....	14, 15



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, NUMBER OF VALID FLORIDA CONCEALED WEAPON LICENSES AS REPORTED AT THE END OF EACH FISCAL YEAR (JUNE 30) SINCE PROGRAM INCEPTION IN OCTOBER 1987 .....	14
Ginwalla, Rashna, <i>et al.</i> , <i>Repeal of the Concealed Weapons Law and Its Impact on Gun-Related Injuries and Deaths</i> , 76 <i>J. Trauma Acute Care Surg.</i> 569 (2014) .....	21
Hamill, Mark E., <i>et al.</i> , <i>State Level Firearm Concealed-Carry Legislation and Rates of Homicide and Other Violent Crime</i> , 228 <i>J. Amer. College of Surgeons</i> 1 (2019) .....	18
Hemenway, David & Solnick, Sara J., <i>The Epidemiology of Self-Defense Gun Use: Evidence from the National Crime Victimization Surveys 2007-2011</i> , 79 <i>Preventive Med.</i> 22 (2015) .....	27, 28, 29
Johnson, Jason, <i>Why violent crime surged after police across America retreated</i> , <i>USA TODAY</i> (Apr. 9, 2021).....	33, 34, 35
Kleck, Gary & Gertz, Marc, <i>Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun</i> , 86 <i>J. of Crim. Law and Criminology</i> 150 (Fall 1995). .....	6, 26, 28

Kleck, Gary, <i>How Hemenway and Solnick Distorted the Effectiveness of Defensive Gun Use</i> (2020) .....	30
KLECK, GARY, POINT BLANK (1991) (Routledge ed. 2017) .....	11
Kopel, David, <i>Arming the right people can save lives</i> , L.A. TIMES (Jan. 15, 2013) .....	24
Kopel, David B., Pretend “Gun-Free” School Zones, 42 CONN. L. REV. 515 (2009) .....	13
Kopel, David, <i>Guns on University Campuses: The Colorado Experience</i> , THE WASHINGTON POST (Apr. 20, 2015) .....	13
La Valle, James M., “Gun Control” vs. “Self-Protection”: A Case against the Ideological Divide, 10 Justice Policy Journal 1 (2013) .....	19
Lott, John R. Jr. & Wang, Rujun, Crime Prevention Research Center, <i>Concealed Carry Permit Holders Across the United States: 2020</i> .....	8, 9, 11
Mac Donald, Heather, <i>A Year After George Floyd’s Murder, It’s “Open Season” in Minneapolis</i> , WALL STREET JOURNAL (May 24, 2021) .....	33, 35

McElroy, Marjorie B. & Wang, Peichun, <i>Seemingly Inextricable Dynamic Differences: The Case of Concealed Gun Permit, Violent Crime and State Panel Data</i> (June 24, 2017) ....	20, 21
McGinty, Jo Craven, <i>New York Killers, and Those Killed, by Numbers</i> , NEW YORK TIMES (Apr. 28, 2006).....	16
MILWAUKEE HOMICIDE REVIEW COMMISSION, ANNUAL REPORT 2015, HOMICIDE AND NON-FATAL SHOOTINGS .....	16, 17
Moody, Carlisle E. & Marvell, Thomas B., <i>The Right-to-Carry Laws: A Critique of the 2014 Version of Aneja, Donohue, and Zhang</i> , 15 Econ. J. Watch 51 (2018) .....	18
NATIONAL ASSOCIATION OF CHIEFS OF POLICE, 31 <sup>ST</sup> ANNUAL SURVEY (2018) .....	31, 32
NATIONAL RESEARCH COUNCIL, PRIORITIES FOR RESEARCH TO REDUCE THE THREAT OF FIREARM-RELATED VIOLENCE 15 (2013) .....	25
<i>NSSF Releases Most Recent Firearm Production Figures</i> (Nov. 20, 2020) .....	11
Pagones, Stephanie, <i>Murder in LA County jumps over 95% so far this year, concealed carry permits on the rise: sheriff</i> , FOX NEWS (Jun. 3, 2021) .....	36

Pagones, Stephanie, <i>Over 440 LA County deputies have left this year, as sheriff calls violence, homelessness “existential threats,”</i> FOX NEWS (Jun. 4, 2021).....	35
POLICE DEPARTMENT CITY OF NEW YORK, MURDER IN NEW YORK CITY 2012.....	16
POLICEONE, GUN POLICY & LAW ENFORCEMENT SURVEY (2013).....	31
Rector, Kevin, <i>Statistical snapshots from Baltimore’s deadliest year: suspects, victims, and cops,</i> BALTIMORE SUN (Jan. 7, 2016)....	16
REUTERS, <i>Texas church shooter wore wig and fake beard, says security head who shot him,</i> (Dec. 30, 2019).....	22
Sagi, Guy J., <i>20 States Now Have Constitutional Carry,</i> NRA SHOOTING ILLUSTRATED (Apr. 27, 2021).....	7
Shi, Wei & Lee, Lung-fei, <i>The Effects of Gun Control on Crimes: A Spatial Interactive Fixed Effects Approach,</i> 55 Empirical Economics 233 (2018) .....	18
Siegel, Michael, <i>et al., Easiness of Legal Access to Concealed Firearm Permits and Homicide Rates in the United States,</i> 107 Am. J. Pub. Health 1923 (2017) .....	20

SMART, ROSANNA, *ET AL.*, THE SCIENCE OF GUN POLICY: A CRITICAL SYNTHESIS OF RESEARCH EVIDENCE ON THE EFFECTS OF GUN POLICIES IN THE UNITED STATES, (RAND Corporation 2d ed. 2020).....17, 20, 21

Smith, Michael R. & Petrocelli, Matthew, *The Effect of Concealed Handgun Carry Deregulation in Arizona on Crime in Tucson*, 30 *Crim. Justice Pol. Rev.* 1186 (2019) .....18

Steele, Allison, *et al.*, *More might have died if doctor had not shot gunman*, *PHIL. INQUIRER* (Jul. 25, 2014) .....24

Sullum, Jacob, *A Survey Not Designed to Measure Defensive Gun Use Finds Little of It*, *REASON* (Sept. 7, 2015) .....27

TEXAS DEPARTMENT OF PUBLIC SAFETY, ACTIVE LICENSE/CERTIFIED INSTRUCTOR COUNTS AS OF DECEMBER 31, 2020 .....13

TEXAS DEPARTMENT OF PUBLIC SAFETY, CONVICTION RATES FOR HANDGUN LICENSE HOLDERS REPORTING PERIOD: 01/01/2020 - 12/31/2020 .....13

U.S. CENSUS BUREAU, QUICKFACTS TEXAS .....14

Webster, Daniel W. *et al.*, *Firearms on College Campuses: Research Evidence and Policy Implications* 8 (Oct. 15, 2016) .....22

Ziezulewicz, Geoff, *Uber driver, licensed  
to carry gun, shoots gunman in Logan Square,*  
CHI. TRIBUNE (Apr. 20, 2015).....24

**INTEREST OF *AMICI CURIAE*<sup>1</sup>****National Sheriffs' Association**

The National Sheriffs' Association is a non-profit organization formed in 1940. It works to promote the fair and efficient administration of criminal justice throughout the United States, and to promote, protect, and preserve the many offices or departments of our country's sheriffs. The NSA has over 21,000 members and is a strong advocate for over 3,000 individual sheriffs located throughout the nation.

**New York State Sheriffs' Association**

The New York State Sheriffs' Association is a not-for-profit corporation formed for the purpose of assisting sheriffs in the efficient and effective delivery of services to the public. It comprises all 58 elected and appointed sheriffs of the State of New York. Since 1934, the Sheriffs' Association has helped New York's sheriffs to serve and protect the citizenry through member-supported training programs, accreditation, legislative advocacy, and public safety programs.

**National Association of Chiefs of Police**

The mission of the National Association of Chiefs of Police, a non-profit organization founded in 1967, is to promote and support the law enforcement

---

<sup>1</sup>No party's counsel authored this brief in whole or in part. No party or party's counsel, and no person other than *amici*, their members, or their counsel contributed money that was intended to fund preparation or submission of this brief. All parties have consented to the filing of this brief.

profession. Membership is limited to command staff officers, and it currently has over 7,000 members.

#### **Western States Sheriffs' Association**

The Western States Sheriffs' Association was established in 1993, and consists of more than three hundred members from sixteen member states. Most of these states have "shall-issue" concealed carry permit systems and permitless carry, which WSSA members have observed in action.

#### **California State Sheriffs' Association**

The California State Sheriffs' Association is a nonprofit professional organization that represents each of the fifty-eight California sheriffs. It was formed to allow the sharing of information and resources in order to improve law enforcement throughout the state.

#### **International Law Enforcement Educators and Trainers Association**

The International Law Enforcement Educators and Trainers Association is an association of 4,000 professional law enforcement instructors committed to the reduction of law enforcement risk, and to saving lives of police officers and citizens through the provision of training enhancements for criminal justice practitioners.

#### **Law Enforcement Legal Defense Fund**

Law Enforcement Legal Defense Fund is nonprofit organization that provides legal assistance to law enforcement officers. LELDF has aided nearly one hundred officers, many of whom have been acquitted, mostly in cases where officers have faced



legal action for otherwise authorized and legal activity in the line of duty.

**International Association of Law Enforcement  
Firearms Instructors, Inc.**

The International Association of Law Enforcement Firearms Instructors, Inc., is a non-profit association formed in 1981 whose 2,000-plus members come from local, state, and federal law enforcement agencies nationwide. It conducts approximately twenty police firearms training events annually, and publishes authoritative training standards and guidelines for law enforcement personnel.

The following are state and local groups that promote the shooting sports, provide firearms safety training, educate the public about firearms, and defend Second Amendment rights, including the right of ordinary citizens to lawfully carry firearms for legitimate purposes such as self-defense: Bridgeville Rifle & Pistol Club, Ltd., Delaware State Sportsmen's Association, Gun Owners' Action League Massachusetts, Gun Owners of California, Hawaii Rifle Association, Maryland State Rifle & Pistol Association, Vermont Federation of Sportsmen's Clubs, Vermont State Rifle & Pistol Association, and Virginia Shooting Sports Association. These organizations have numerous members who are current or former law enforcement officers.

Thus, *amici* are all organizations with members who are law enforcement officers or that support law enforcement officers and agencies. *Amici* believe that the perspective of front line law enforcement personnel should be of assistance in determining

whether New York’s statute barring most law-abiding citizens from carrying outside the home is necessary for public safety.

### SUMMARY OF ARGUMENT

*District of Columbia v. Heller* properly observed that the home is where the need for defense of self, family, and property is “most acute,” but most defensive uses of firearms—up to 75%—actually take place outside the home. The conjecture advanced by New York that allowing law-abiding citizens to carry firearms outside the home will create a danger to public safety is conclusively refuted by the experience of the forty-two states (plus D.C.) that freely allow such carry, under a “shall-issue” system, “permitless” system, or both.

Hyperbolic claims that carry outside the home by law-abiding citizens will cause crime and bloodshed are refuted by data showing increased carry and decreased crime over the past three decades. During the period 1991-2019, the number of firearms in civilian hands more than doubled, to an estimated 434 million. The number of carry permits increased by at least seven-fold, and the number of people who can legally carry without a permit swelled by vast amounts by the adoption of permitless carry regimes in twenty-one states by July 2021. Yet over the period 1991-2019, murder rates fell by almost half, and violent crime plummeted by more than half. The thesis that more ordinary citizens carrying firearms in public causes more crime is patently untrue.

Hard data show that concealed carry permit holders are an extraordinarily law-abiding group. In Texas, the conviction rate for carry license holders in

2020 was about one seventeenth of the conviction rate for the general population. In Florida, the annual license revocation rate due to convictions for disqualifying crimes or other reasons was only .045% for the past year. Police statistics from large cities show that the vast majority of homicides are committed by individuals who already have criminal records (and are thus generally ineligible even to possess firearms), and that a high percentage of their victims also had criminal records.

Social science studies do not establish that allowing increased carry by ordinary citizens poses a threat of increased violent crime. At most, the studies are inconclusive, and several studies relied on by New York and its *amici* below were found to suffer from serious methodological weaknesses in a metastudy by the RAND Corporation in 2020.

Recognizing a right to carry outside the home also does not increase the number of victims in mass shootings. Numerous instances in which many lives were saved by an armed citizen preventing or stopping a mass shooting are well-documented.

Ordinary citizens frequently use firearms to protect themselves from criminal attack. Carefully designed surveys show that such defensive uses (which overwhelmingly do not result in a shot being fired) occur 1.5 to 2.5 million times per year. Claims that defensive gun uses pose a danger to the person defending against attack are unfounded.

For such reasons, law enforcement personnel at all levels overwhelmingly support the right of law-abiding citizens to carry firearms.

The outbreak of murders and shootings beginning in May 2020 emphasizes the need for citizens to defend themselves. Since the death of George Floyd, politicians have defunded and demoralized police, causing huge spikes in crime in many major cities. Because law enforcement is no longer able to provide previous levels of protection, citizens have realized that they must be their own first responders. Consistent with this Court's precedents and the language of the Second Amendment, the Court should confirm the right to armed self-defense where it is most frequently needed: outside the home.

### ARGUMENT

*District of Columbia v. Heller*<sup>2</sup> held that the Second Amendment codifies a pre-existing “individual right to possess and carry weapons in case of confrontation.”<sup>3</sup> The home may be the place where “the need for defense of self, family, and property is most acute,”<sup>4</sup> but most confrontations actually occur outside the home. A classic, well-designed study of defensive gun uses by citizens showed that 62.1% of defensive gun uses occur outside the home.<sup>5</sup> A recent, very large scale survey conducted by Professor William English of Georgetown found that 74.8% of defensive gun uses take place outside the home.<sup>6</sup>

---

<sup>2</sup> 554 U.S. 570, 592 (2008).

<sup>3</sup> *Id.* at 592.

<sup>4</sup> *Id.* at 628.

<sup>5</sup> Gary Kleck & Marc Gertz, *Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun*, 86 *J. of Crim. Law and Criminology* 150, 185 (Fall 1995).

<sup>6</sup> William English, *2021 National Firearms Survey* 9 (Jul. 14,

This brief presents information demonstrating that allowing law-abiding Americans to carry handguns outside the home will not convert them into violent criminals, as opponents of civilian carry often assert.

The supposition that allowing carry will result in escalated violence is conclusively refuted by decades of lived experience in the forty-two states, plus the District of Columbia, which recognize the right of law-abiding citizens to carry firearms for defensive purposes. Forty-one of these forty-two states have “shall-issue” carry laws, which were largely passed beginning in the 1980s. Only Vermont, which since 1903 has judicially affirmed the constitutional right to carry without a permit,<sup>7</sup> does not.

Of these forty-two states, twenty states besides Vermont have also recognized “permitless carry” (sometimes called “constitutional carry”) beginning with Alaska in 2003.<sup>8</sup> In these states, no form of state permission is required for carry by citizens who are not disqualified by law. Only eight outlier states retain a discretionary system in which permission

---

2021), <https://ssrn.com/abstract=3887145>.

<sup>7</sup> *State v. Rosenthal*, 55 A. 610 (Vt. 1903).

<sup>8</sup> As of 2021, the twenty-one states with permitless concealed carry systems are Alaska, Arizona, Arkansas, Idaho, Iowa, Kansas, Kentucky, Maine, Mississippi, Missouri, Montana, New Hampshire, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, and Wyoming. Guy J. Sagi, *20 States Now Have Constitutional Carry*, NRA SHOOTING ILLUSTRATED (Apr. 27, 2021). Texas passed its permitless carry law after the cited article was written, bringing the total to twenty-one.

from the state is required—and which is withheld from most citizens—to carry outside the home.

**I. RECOGNIZING THE SECOND AMENDMENT RIGHT OF ORDINARY, LAW-ABIDING CITIZENS TO CARRY HANDGUNS FOR LAWFUL PURPOSES CREATES LITTLE OR NO SAFETY RISK.**

**A. New York’s extremely restrictive licensing system prevents most New Yorkers from exercising their Second Amendment rights.**

In addition to multiple, restrictive criteria for handgun permits generally, New York limits carry permits to those who can show “proper cause” in the eyes of governmental licensing authorities.<sup>9</sup> This discretionary system allows a government official to decide whether an individual may defend his or her life with a handgun outside the home without deliberately breaking the law.

Unlike many states, New York refuses to publish data concerning concealed carry permits at the state level. The Crime Prevention Research Center estimates that as of June 2020 only 196,132 individuals in New York had carry licenses.<sup>10</sup> That is

---

<sup>9</sup> Carry licenses may be issued to “have and carry concealed, without regard to employment or place of possession” to a person “when proper cause exists for the issuance thereof.” N.Y. Penal Law § 400.00.2(f); *see also* N.Y. Penal Law § 400.00.1(b), (n).

<sup>10</sup> John R. Lott, Jr. & Rujun Wang, Crime Prevention Research Center, *Concealed Carry Permit Holders Across the United States: 2020* at 18, 21 (hereinafter “*Concealed Carry Permit Holders 2020*”).

a mere 1.27% of the adult population of the state.<sup>11</sup> The requirements for licenses in the City of New York are even more restrictive than in the rest of the state.<sup>12</sup>

Besides New York, the other seven states with discretionary, “may-issue” systems are California, Delaware, Hawaii, Maryland, Massachusetts, New Jersey, and Rhode Island.<sup>13</sup> Some of these eight states are effectively “no-issue” states. For a state by state analysis of these eight states, see Brief of *Amici Curiae* Law Enforcement Groups and State and Local Firearms Rights Groups in support of granting certiorari in this case (“LE Groups Cert. Br.”)

According to the Crime Prevention Research Center, there are 19.48 million carry permits outstanding, most of them issued to residents of “shall-issue” states.<sup>14</sup> Overall, 7.6% of American adults have concealed carry permits and in some

---

<sup>11</sup> *Id.* at 18.

<sup>12</sup> See *NYSRPA v. City of New York*, 140 S.Ct. 1525, 1529-30 (2020) (premises licenses).

<sup>13</sup> There is some room for disagreement regarding which states are may-issue or shall-issue. Connecticut’s statute, Conn. Gen. Stat. § 29–28(b), is may-issue in its language, but shall-issue in practice. See *Kuck v. Danaher*, 822 F. Supp.2d 109 (D. Conn. 2011). Massachusetts is “may-issue” but grants carry permits at a respectable rate. LE Groups Cert. Br. 20-21. Rhode Island’s laws allow local authorities to issue permits under what is ostensibly a “shall-issue” system, and the Attorney General to issue permits under a “may-issue” standard, yet permits at both levels are issued at a negligible rate. *Id.* at 19-20. Some consider Delaware to be “shall-issue,” but its statute is purely discretionary. *Id.* at 18-19.

<sup>14</sup> *Concealed Carry Permit Holders 2020* at 3.

states the percentages run as high as 28.5%.<sup>15</sup> Beyond concealed carry permitting systems, forty-six states allow open carry, either with or without a permit, for self-defense.<sup>16</sup> In short, concealed and open carry is the norm throughout most of the country, including many large urban areas.

**B. Thirty years' experience with increased gun ownership and liberalized carry laws has not led to increased crime.**

It is often argued that “[t]he State... has an interest in reducing the number of guns in public places because there are more deaths and injuries from firearms when more guns are present.”<sup>17</sup>

But does the mere presence of firearms, in public or otherwise, cause more deaths and injuries?

Let’s look at long-term, comprehensive facts regarding the increase in guns, the increase in concealed carry, and rates of crime. Over the period 1991-2019, the net number of guns in America increased by 228,034,404.<sup>18</sup> A detailed estimate of the

---

<sup>15</sup> *Id* at 16.

<sup>16</sup> As of 2021, only California (which has a mixed system that varies by county), Florida, Illinois, and New York, plus D.C., generally ban open carry of handguns by law. A few others, such as New Jersey and Maryland, ban open carry in practice.

<sup>17</sup> Br. Amici Curiae of City of Chicago *et al.* in Support of Defendants-Appellees at 20, ECF No. 29, *Moore v. Madigan*, No. 12-1269 (7th Cir. May 16, 2012).

<sup>18</sup> “Net” is the total number of firearms manufactured in the specified time period plus imports, minus exports. BATFE, COMMERCE IN U.S. ANNUAL STATISTICAL UPDATE 2020 (net increase of 217,353,278 firearms computed from data for 1991-2018), <https://www.atf.gov/file/149886/download>. Data for 2019



number of civilian firearms as of 1990 was 200,000,000.<sup>19</sup> The best estimate is that in 2019 there were about 434 million firearms in civilian possession in the United States.<sup>20</sup> Thus, over that nearly thirty-year period, the inventory of firearms in this country more than doubled.

While we do not have figures on the number of concealed carry permits extending back to 1991, we do have data on permit numbers for 1999 through 2019. In 1999, there were 2.7 million permit holders.<sup>21</sup> By 2019, the total number of permits was 19.48 million. Thus, just over the period 1999-2019 there was an approximately seven-fold increase in the number of permit holders, and from 1991 the increase was probably much greater.

The issuance of these nearly twenty million permits greatly understates the number of people who may legally carry handguns concealed. As of

---

is from BATFE, ANNUAL FIREARMS MANUFACTURING AND EXPORT REPORT YEAR 2019 FINAL (net increase of 10,681,126 firearms computed for 2019), <https://www.atf.gov/resource-center/docs/report/2019-annual-firearms-manufacturers-and-export-report-afmer/download>. These two figures sum to 228,034,404. Some of these firearms entering American hands since 1991 were destroyed, discarded, or rendered inoperable, but since firearms are prototypical “durable goods” that number is likely minimal.

<sup>19</sup> GARY KLECK, POINT BLANK 18, and unpaginated Tables 2.1 and 2.3 (1991) (Routledge ed. 2017).

<sup>20</sup> NSSF, *NSSF Releases Most Recent Firearm Production Figures* (Nov. 20, 2020), <https://www.nssf.org/articles/nssf-releases-most-recent-firearm-production-figures/>.

<sup>21</sup> *Concealed Carry Permit Holders 2020* at 9.

2019, seventeen states did not require a permit to carry a handgun concealed, up from one state (Vermont) in 1991.<sup>22</sup>

In short, over the period 1991-2019 the inventory of firearms more than doubled; the number of concealed carry permits increased by at least seven-fold; and the number of people who can legally carry concealed without a permit increased exponentially. If the gun control thesis is true, *i.e.*, that more guns in general and more people carrying concealed handguns causes death, injury, and mayhem, then murders and violent crime would have skyrocketed over this decades-long period.

But hard data prove that the thesis is not true. Over that same period of 1991-2019, murder rates fell by almost half, from 9.8 per 100,000 people in 1991 to 5.0 per 100,000 in 2019.<sup>23</sup> Violent crimes plummeted by over half during that period, from 758.2 per 100,000 to 366.7 per 100,000.<sup>24</sup>

---

<sup>22</sup> As noted, as of 2021 that number has risen to 21.

<sup>23</sup> FBI UCR (2000) Table 1, Index of Crime United States, 1981-2000, [https://ucr.fbi.gov/crime-in-the-u.s/2000/table1\\_crime81-00.xls](https://ucr.fbi.gov/crime-in-the-u.s/2000/table1_crime81-00.xls); FBI UCR (2019) Table 1, Crime in the United States by Volume and Rate per 100,000 Inhabitants, 2000-2019, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/downloads/cius2019downloadablefiles.zip>.

<sup>24</sup> FBI UCR (2010) Table 1, Crime in the United States by Volume and Rate per 100,000 Inhabitants, 1991-2010, <https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl01.xls>; FBI UCR (2019) Crime in the United States by Volume and Rate per 100,000 Inhabitants, 2000-2019, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-1>.

The very large increases in total firearms and in lawful carry by permit holders and others have emphatically *not* fueled crime or violence.<sup>25</sup>

**C. Concealed carry permit holders in “shall-issue” states are remarkably law-abiding.**

Professor David Kopel has examined data from a number of “shall-issue” states regarding the number of crimes committed by concealed carry permit holders. The data revealed that as a group concealed carry permit holders are vastly more law-abiding than the public generally.<sup>26</sup> Recent data confirm these findings.

In Texas, data from 2020 show total convictions of a long list of crimes and the number of those crimes committed by carry license holders. Carry license holders were convicted of 114 out of a total of 26,304 convictions, or 0.4334%.<sup>27</sup> There were 1,626,242 active license holders in 2020.<sup>28</sup> The population 18

---

<sup>25</sup> We cite data through 2019 because the crime rate changed dramatically in 2020, but not due to increased firearms availability or lawful carry. See Part II. C., below.

<sup>26</sup> David B. Kopel, Pretend “*Gun-Free*” School Zones, 42 CONN. L. REV. 515, 564-69 (2009); David Kopel, *Guns on University Campuses: The Colorado Experience*, THE WASHINGTON POST (Apr. 20, 2015).

<sup>27</sup> TEXAS DEPARTMENT OF PUBLIC SAFETY, CONVICTION RATES FOR HANDGUN LICENSE HOLDERS REPORTING PERIOD: 01/01/2020-12/31/2020, <https://www.dps.texas.gov/sites/default/files/documents/rsd/lrc/reports/convictionratesreport2020.pdf>.

<sup>28</sup> TEXAS DEPARTMENT OF PUBLIC SAFETY, ACTIVE LICENSE/CERTIFIED INSTRUCTOR COUNTS AS OF DECEMBER 31, 2020, <https://www.dps.texas.gov/sites/default/files/documents/rsd/lrc/reports/actlicandinstr/activelicandinstr2020.pdf>.

and older is estimated by the Census Bureau to be 74.5% of the total Texas population of 29,145,505, or 21,713,401 adult individuals.<sup>29</sup> Thus, carry license holders constituted 7.49% of the population 18 and older, but committed only 0.4334% of the crimes. The conviction rate of license holders is therefore about 1/17<sup>th</sup> the rate for the general adult population.

In Florida, carry licenses are revoked if a licensee commits a disqualifying crime (all felonies plus others) or is disqualified because of mental health, substance abuse, domestic violence, or other reasons.<sup>30</sup> 5,007,776 licenses were issued over the period October 1, 1987, through June 30, 2021.<sup>31</sup> During that period, 17,134 licenses were revoked for all reasons, a rate of 0.34%.<sup>32</sup> As of June 30, 2021, the number of valid licenses statewide was 2,321,146.<sup>33</sup> In the year ending June 30, 2021, 1,050 licenses were

---

<sup>29</sup> U.S. CENSUS BUREAU, QUICKFACTS TEXAS, <https://www.census.gov/quickfacts/fact/table/TX,US/PST045219>.

<sup>30</sup> Fla. Stat. § 790.06.

<sup>31</sup> FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, CONCEALED WEAPON OR FIREARM LICENSE SUMMARY REPORT, OCTOBER 1, 1987-JUNE 30, 2021 (“Summary Report 2021”), [https://www.fdacs.gov/content/download/7499/file/cw\\_monthly.pdf](https://www.fdacs.gov/content/download/7499/file/cw_monthly.pdf).

<sup>32</sup> *Id.*

<sup>33</sup> FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, NUMBER OF VALID FLORIDA CONCEALED WEAPON LICENSES AS REPORTED AT THE END OF EACH FISCAL YEAR (JUNE 30) SINCE PROGRAM INCEPTION IN OCTOBER 1987, [https://www.fdacs.gov/content/download/7504/file/NumberOfValidCWLlicenses\\_FiscalYearEndSince1987-1988.pdf](https://www.fdacs.gov/content/download/7504/file/NumberOfValidCWLlicenses_FiscalYearEndSince1987-1988.pdf).

revoked, an annual revocation rate of .045%.<sup>34</sup> From 1987 through 2010, when the state stopped publishing this information, only 168 revocations were for a crime with a “Firearm Utilized.”<sup>35</sup>

Given the exceptionally law-abiding character of carry permit holders across the U.S., the supposition that New Yorkers would be converted from law-abiding citizens to violent criminals if they were allowed to carry a firearm for self-defense is unfounded.

**D. Most homicides and non-fatal shootings are committed by individuals with criminal records who are ineligible to possess firearms.**

Eliminating the right of most law-abiding citizens to carry firearms for self-protection is not tailored to reduce crime. Evidence and law enforcement experience confirm that most violent crimes are committed by repeat offenders, whose criminal records generally render them ineligible even to possess firearms. Felons and domestic abusers, for example, cannot legally possess or purchase firearms under federal law.<sup>36</sup> But violent criminals don’t obey the law and they don’t get licenses.

In 2006, an analysis of three years of homicide data by the New York Times revealed a compelling

---

<sup>34</sup> FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, APPLICATIONS AND DISPOSITIONS BY COUNTY JULY 1, 2020–JUNE 30, 2021, [https://www.fdacs.gov/content/download/92523/file/07012020\\_06302021\\_cw\\_annual.pdf](https://www.fdacs.gov/content/download/92523/file/07012020_06302021_cw_annual.pdf). Florida licenses are good for seven years.

<sup>35</sup> Summary Report 2021.

<sup>36</sup> 18 U.S.C. § 922(g).

fact: more than 90% of the killers in New York City had criminal records, as did more than half of those killed.<sup>37</sup>

An NYPD report showed similar results for the year 2012, the last year for which such a study was produced. In that year, 87% of homicide suspects had at least one prior arrest.<sup>38</sup> Seven out of ten homicide victims had prior arrests.<sup>39</sup>

Data from other cities confirm this pattern. In Baltimore, police data for 2015 showed that of all homicide suspects, “76.5 percent had prior criminal records,” and those suspects averaged over nine arrests apiece.<sup>40</sup> Data released by the Baltimore police for 2019 revealed that 81.4% of all homicide suspects had prior criminal records, as did 81.9% of homicide victims.<sup>41</sup>

The most recent annual report for Milwaukee homicides states that “[a]lmost 100% of the 2015 known suspects had a criminal history” and adds that “[t]he overwhelming majority of suspects have criminal histories going back to 2005.”<sup>42</sup> Moreover,

---

<sup>37</sup> Jo Craven McGinty, *New York Killers, and Those Killed, by Numbers*, NEW YORK TIMES (Apr. 28, 2006).

<sup>38</sup> POLICE DEPARTMENT CITY OF NEW YORK, MURDER IN NEW YORK CITY 2012 at 10, <https://www1.nyc.gov/site/nypd/stats/reports-analysis/archive.page>.

<sup>39</sup> *Id.* at 6.

<sup>40</sup> Kevin Rector, *Statistical snapshots from Baltimore’s deadliest year: suspects, victims, and cops*, BALTIMORE SUN (Jan. 7, 2016).

<sup>41</sup> David Collins, *BPD analysis uncovers revealing information about murder victims, suspects*, WBAL-TV (Jan. 2, 2020).

<sup>42</sup> MILWAUKEE HOMICIDE REVIEW COMMISSION, ANNUAL REPORT

83% of the homicide victims had prior arrest histories.<sup>43</sup>

This phenomenon is true not only of homicides. In Milwaukee in 2015, 97% of non-fatal shooting suspects had a criminal history.<sup>44</sup> As with homicides, the vast majority of non-fatal shooting victims (77%) also had criminal histories.<sup>45</sup>

These are criminals shooting other criminals. Law-abiding citizens legally carrying concealed firearms are not the problem.

**E. Social science studies do not establish that allowing carry under shall-issue or constitutional carry regimes poses a threat to public safety.**

Social science studies have not shown a predictive relationship between less restrictive concealed carry laws and increased violent crime.

The most comprehensive assessment of social science studies on this issue is the RAND Corporation's 2020 metastudy, which found that the evidence is "inconclusive" that state shall-issue laws have any effects on total homicides, firearm homicides, robberies, assaults, and rapes.<sup>46</sup>

---

2015, HOMICIDE AND NON-FATAL SHOOTINGS 48, <http://city.milwaukee.gov/ImageLibrary/Groups/cityHRC/reports/2015AnnualReportFINAL.pdf>.

<sup>43</sup> *Id.* at 42.

<sup>44</sup> *Id.* at 49.

<sup>45</sup> *Id.* at 43.

<sup>46</sup> ROSANNA SMART *ET AL.*, THE SCIENCE OF GUN POLICY: A CRITICAL SYNTHESIS OF RESEARCH EVIDENCE ON THE EFFECTS OF

Several recent studies have reached conclusions directly opposite the “new” research cited by New York and its *amici* in the Second Circuit. They show that less restrictive concealed-carry laws have little or no effect on homicide or other violent crime rates. Based on state-level data from 1986 to 2015, one study found no statistically significant association between the liberalization of state carry laws and rates of violent crime, homicides, or firearm homicides.<sup>47</sup> In another state-level study, researchers found no evidence that right-to-carry laws have increased crime.<sup>48</sup> A third state-level study found that right-to-carry laws have no significant effects on the overall violent or property crime rates, and actually led to medium-term decreases in murder rates.<sup>49</sup>

Two city-level studies reached similar conclusions. The first concluded that Arizona’s 2010 repeal of its requirement for government-issued concealed carry permits had no appreciable effect on handgun-related violent crime in Tucson.<sup>50</sup> Analyzing data from 56

---

GUN POLICIES IN THE UNITED STATES, 282-302 (RAND Corporation 2d ed. 2020) (“RAND metastudy”).

<sup>47</sup> Mark E. Hamill *et al.*, *State Level Firearm Concealed-Carry Legislation and Rates of Homicide and Other Violent Crime*, 228 J. Amer. College of Surgeons 1 (2019).

<sup>48</sup> Carlisle E. Moody & Thomas B. Marvell, *The Right-to-Carry Laws: A Critique of the 2014 Version of Aneja, Donohue, and Zhang*, 15 Econ. J. Watch 51 (2018).

<sup>49</sup> Wei Shi & Lung-fei Lee, *The Effects of Gun Control on Crimes: A Spatial Interactive Fixed Effects Approach*, 55 Empirical Economics 233 (2018).

<sup>50</sup> Michael R. Smith & Matthew Petrocelli, *The Effect of Concealed Handgun Carry Deregulation in Arizona on Crime in*



cities from 1980-2010, the second concluded that shall-issue laws *reduced* firearm homicides by 15 percent and total homicides by 13 percent.<sup>51</sup>

A recent, sophisticated study by Dr. William English of Georgetown shows that when one tracks actual concealed carry permit issuance over time, rather than using the cruder “binary” methodology that merely looks at crime rates before and after a restrictive law is lifted, more permissive carry still has no significant effect on violent crime or homicide rates.<sup>52</sup>

The studies cited by New York and its *amici* below do not establish that restrictive carry laws reduce crime, as opposed to “shall-issue” regimes:

1. John Donohue *et al.*, *Right-to-Carry Laws and Violent Crime: A Comprehensive Assessment Using Panel Data and a State-Level Synthetic Control Analysis*, 16 J. Empirical Legal Stud. 198 (2019).

This study estimated increases in violent crime generally with more lenient shall-issue laws. Its two-way fixed effects model, however, indicates uncertain or statistically insignificant effects on total murder and firearm murder rates.<sup>53</sup> The RAND metastudy questions the reliability of Donohue’s synthetic

---

*Tucson*, 30 Crim. Justice Pol. Rev. 1186 (2019).

<sup>51</sup> James M. La Valle, “*Gun Control*” vs. “*Self-Protection*”: A Case against the Ideological Divide, 10 Justice Policy Journal 1 (2013).

<sup>52</sup> William English, *The Right to Carry Has Not Increased Crime: Improving an Old Debate Through Better Data on Permit Growth Over Time* 34 (Jul. 14, 2021), <https://ssrn.com/abstract=3887151>.

<sup>53</sup> Donohue *et al.*, at 217.

control model, explaining that “when controls are made up of just a few states, as they were in this case, their usefulness for identifying causal effects may be compromised.”<sup>54</sup> Professor English has subjected this study to a detailed critique.<sup>55</sup>

2. Michael Siegel *et al.*, *Easiness of Legal Access to Concealed Firearm Permits and Homicide Rates in the United States*, 107 *Am. J. Pub. Health* 1923 (2017).

Siegel and colleagues estimated that shall-issue laws are associated with significantly higher rates of total, firearm-related, and handgun-related homicides. The RAND metastudy classified this study as having “serious methodological problems.”<sup>56</sup>

3. Cassandra K. Crifasi *et al.*, *Association Between Firearm Laws and Homicide in Urban Counties*, 95 *J. Urban Health* 383 (2018).

Crifasi and colleagues estimated that right-to-carry laws were associated with a 7% (corrected) increase in firearm homicide in large, urban counties. The RAND metastudy also classified this study as having “serious methodological problems.”<sup>57</sup>

4. Marjorie B. McElroy & Peichun Wang, *Seemingly Inextricable Dynamic Differences: The Case of Concealed Gun Permit, Violent Crime and*

---

<sup>54</sup> RAND metastudy at 291-92.

<sup>55</sup> English, *Right to Carry Has Not Increased Crime*, *supra*, at 5-36.

<sup>56</sup> RAND metastudy at 298-99 (Figure 18.3).

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

*State Panel Data 1*, 32 (June 24, 2017), <https://ssrn.com/abstract=2992058>.

This unpublished paper estimates that violent crime rates would be reduced by one-third if states had not enacted shall-issue laws. Details of the study's statistical method are unpublished. The study omits important variables, such as the number of police officers, prison incarceration rate, crack epidemic, sentencing laws, other gun control laws, unemployment rates, poverty rates, and alcohol consumption, all of which are routinely used in most estimated crime equations. It was not even included in the RAND metastudy.

5. Rashna Ginwalla et al., *Repeal of the Concealed Weapons Law and Its Impact on Gun-Related Injuries and Deaths*, 76 *J. Trauma Acute Care Surg.* 569 (2014).

Ginwalla and colleagues found that there was an increase in firearm homicides and suicides after the repeal of Arizona's carry permit requirement. The study concedes, however, that the increase could be related to an overall increase in firearm purchases during the period rather than less restrictive concealed carry.<sup>58</sup> The RAND metastudy notes that the study's flaws run deeper due to a variety of confounders that were not controlled for in the analysis.<sup>59</sup>

Perhaps the best rebuttal of these social science

---

<sup>58</sup> Rashna Ginwalla et al., *Repeal of the Concealed Weapons Law*, *supra*, at 571-72.

<sup>59</sup> RAND metastudy at 308.

studies is provided by the states that have liberalized their carry regimes. Of the forty-one states that established a shall-issue system, not one has reverted to a restrictive, may-issue system. Of the twenty-one states that have a permitless carry right, not one has repealed permitless carry.

**F. Recognizing a right to carry outside the home does not cause mass shootings, but stops them.**

Some gun control advocates dubiously seek to link states with permissive carry regimes to a higher number of mass shooting deaths.<sup>60</sup> What we can be sure of are the numerous documented instances in which legally-armed citizens prevented a mass shooter from taking innocent lives.

In 2019, a possibly deranged man entered the West Freeway Church of Christ during a service.<sup>61</sup> He produced a shotgun and began firing, killing two. Within seconds, an armed parishioner killed the shooter with a legally carried, concealed pistol.<sup>62</sup>

Two years earlier, while a Texas ban on carry in

---

<sup>60</sup> See, e.g., Br. of *Amicus Curiae*, Giffords Law Center to Prevent Gun Violence, Supporting Defendants-Appellees at 7 n.12, ECF No. 62, in the Second Circuit below (citing Daniel W. Webster *et al.*, *Firearms on College Campuses: Research Evidence and Policy Implications* 8 (Oct. 15, 2016)). Webster's unpublished paper merely cites data from a different researcher who relied on an atypical definition of "mass shooting" and found only a slightly increased effect.

<sup>61</sup> REUTERS, *Texas church shooter wore wig and fake beard, says security head who shot him*, (Dec. 30, 2019), <https://www.reuters.com/article/us-texas-shooting-idUSKBN1YY1F0>.

<sup>62</sup> *Id.*

churches was still in effect,<sup>63</sup> a convicted domestic abuser killed twenty-six people and wounded twenty others in a church in Sutherland Springs, Texas. He was only stopped outside the church when he was shot twice by an armed citizen who ran to the scene with his rifle.<sup>64</sup>

In 2007, a deranged man entered the lobby of New Life Church in Colorado, carrying two handguns, a rifle, and a thousand rounds of ammunition. He had murdered four people in the previous twelve hours. A member of the church drew and fired, preventing what might otherwise have been an enormous mass shooting at the megachurch.<sup>65</sup>

Illinois began issuing carry permits under a “shall-issue” system in early 2014 after its prior ban had been invalidated.<sup>66</sup> On April 17, 2015, a man “opened fire on a crowd of people” in Chicago. An Uber driver with a carry permit fired six shots and stopped the

---

<sup>63</sup> Benjamin Fearnow, *Texas Allows Guns in Churches, Schools After Firearm Access Laws Expanded, Effective September 1*, NEWSWEEK (Sep. 1, 2019), <https://www.newsweek.com/texas-gun-laws-september-1-effect-schools-churches-restrictions-1457123>.

<sup>64</sup> Jennifer Calfas and Mahita Gajanan, *What to Know About the South Texas Church Shooting*, TIME (Nov. 6, 2017), <https://time.com/5010772/texas-sutherland-springs-church-shooting/>.

<sup>65</sup> CNN, *Security Guard Who Stopped Shooter Credits God* (Dec. 10, 2007), <http://www.cnn.com/2007/US/12/10/colorado.shootings/index.html>.

<sup>66</sup> *Moore v. Madigan*, 702 F.3d 933 (7<sup>th</sup> Cir. 2012); *People v. Aguilar*, 2 N.E.3d 321 (Ill. 2013).

attacker.<sup>67</sup>

On March 22, 2015, a man began shooting inside the Falah Barbershop in West Philadelphia. Another man, with a carry license, shot him. Philadelphia Police Captain Frank Llewellyn said, “He responded and I guess he saved a lot of people in there.”<sup>68</sup>

On July 24, 2014, a man with a long record of violent crime and mental illness entered a psychiatric crisis center adjoining Mercy Fitzgerald Hospital, near Philadelphia. He shot a nurse, and then opened fire against his doctor. The doctor returned fire and stopped the killer, who had 39 unfired rounds of ammunition left. “If Dr. Silverman did not have the firearm and did not utilize the firearm, he’d be dead today,” [District Attorney Jack] Whelan said. “And other people would be dead.”<sup>69</sup> There are many more events like these.<sup>70</sup>

---

<sup>67</sup> Geoff Ziezulewicz, *Uber driver, licensed to carry gun, shoots gunman in Logan Square*, CHI. TRIBUNE (Apr. 20, 2015), <http://www.chicagotribune.com/news/local/breaking/ct-uber-driver-shoots-gunman-met-0420-20150419-story.html>.

<sup>68</sup> CBSPHILLY.COM, *Gunman Shot Dead Inside West Philadelphia Barbershop*, (Mar. 22, 2015), <http://philadelphia.cbslocal.com/2015/03/22/man-shot-dead-inside-west-philadelphia-barber-shop/>.

<sup>69</sup> Allison Steele, Ben Finley, and Laura McCrystal, *More might have died if doctor had not shot gunman*, PHIL. INQUIRER (Jul. 25, 2014), [http://www.philly.com/philly/news/20140726\\_Hospital\\_shooter\\_had\\_history\\_of\\_mental\\_illness\\_arrests\\_records\\_show.html](http://www.philly.com/philly/news/20140726_Hospital_shooter_had_history_of_mental_illness_arrests_records_show.html).

<sup>70</sup> See, e.g., David Kopel, *Arming the right people can save lives*, L.A. TIMES (Jan. 15, 2013) (describing ten instances in which an active shooter or potential mass shooter was stopped by an armed citizen), <https://www.latimes.com/opinion/la-xpm-2013->

No mass shooter will be deterred from committing horrific crimes because he doesn't have a carry permit. Similarly, there is no known instance of a mass shooter being stopped for lack of a carry permit on the way to committing his crime. Fortunately, these criminals are sometimes stopped by armed citizens.

## **II. CITIZENS MUST BE THEIR OWN FIRST RESPONDERS TO WARD OFF CRIMINAL ATTACK.**

### **A. Countless lives are protected each year by the ability to carry firearms outside the home.**

Law enforcement officers can only rarely be present to prevent or stop a criminal attack. They respond as quickly as they can, and may later arrest the perpetrator and keep him from harming others, but a criminal attack is usually completed in a matter of seconds. Survival may depend on whether the victim can resist with a firearm.

Law-abiding citizens use legally possessed firearms to defend themselves in large numbers every year. The National Research Council notes that "Defensive use of guns by crime victims is a common occurrence.... Almost all national survey estimates indicate that defensive gun uses by victims are at least as common as offensive uses by criminals, with estimates of annual uses ranging from about 500,000 to 3 million, in the context of about 300,000 violent crimes involving firearms in 2008."<sup>71</sup>

---

[jan-15-la-oe-kopel-guns-resistance-nra-20130115-story.html](http://jan-15-la-oe-kopel-guns-resistance-nra-20130115-story.html).

<sup>71</sup> NATIONAL RESEARCH COUNCIL, PRIORITIES FOR RESEARCH TO

Criminologists Gary Kleck and Marc Gertz conducted an especially thorough survey in 1993, with stringent safeguards to weed out respondents who might misdescribe or misdate a defensive gun use (DGU) event.<sup>72</sup> Their results indicated between 2.2 and 2.5 million DGUs annually.<sup>73</sup>

The Kleck/Gertz survey found most defensive uses involved handguns (80%), and a large majority of defensive uses (76%) did not involve firing the weapon, but merely displaying it to deter an attacker.<sup>74</sup>

Philip Cook of Duke and Jens Ludwig of Georgetown were skeptical of Kleck's results so they conducted their own survey. That survey produced an estimate of 1.46 million DGUs.<sup>75</sup>

In 2021, Professor English's large, sophisticated survey revealed results of a similar magnitude--an estimated 1.67 million DGUs annually.<sup>76</sup> His findings that handguns are most frequently used for self-defense (65.9%), and in the vast majority of incidents

---

REDUCE THE THREAT OF FIREARM-RELATED VIOLENCE 15 (2013)  
(citations omitted).

<sup>72</sup> Kleck & Gertz, *supra*.

<sup>73</sup> Kleck & Gertz at 164.

<sup>74</sup> Kleck & Gertz at 175.

<sup>75</sup> PHILIP COOK & JENS LUDWIG, GUNS IN AMERICA: RESULTS OF A COMPREHENSIVE NATIONAL SURVEY OF FIREARMS OWNERSHIP AND USE (1996).

<sup>76</sup> English, *2021 National Firearms Survey, supra*, at 1.



(81.9%) no shot was fired, are consistent with Kleck's findings.<sup>77</sup>

Unlike the surveys conducted by Kleck, Cook and Ludwig, and English, lower DGUs have been estimated by studies relying on the National Crime Victimization Survey. However, estimates of DGUs based on NCVS data are unreliable, since the NCVS surveys do not actually ask if the individual used a firearm defensively.<sup>78</sup>

It is certainly not true, as asserted in one Second Circuit *amicus* brief, that “victims of violent crimes use firearms to threaten or attack the perpetrator in less than one percent of all criminal incidents.”<sup>79</sup> That statement is based on a study using NCVS data, which (as noted) is unreliable for determining DGUs. But more importantly, it was not one percent of “victims of violent crimes” who used a gun, but one percent of victims of *all kinds of crimes*, including property crimes, pocket picking, purse snatching, and verbal threats, for which responding with a gun rarely is appropriate.<sup>80</sup>

---

<sup>77</sup> *Id.*

<sup>78</sup> See Jacob Sullum, *A Survey Not Designed to Measure Defensive Gun Use Finds Little of It*, REASON (Sept. 7, 2015), <https://reason.com/2015/09/07/a-survey-thats-not-designed-to-measure-d/>. Studies using NCVS also probably understate DGUs because the respondents know the NCVS is conducted for the Department of Justice and that their responses are not anonymous. Many people will be hesitant to inform a law enforcement agency that they have recently used a gun against another human being. *Id.*

<sup>79</sup> Giffords Br., *supra*, at 8.

<sup>80</sup> David Hemenway & Sara J. Solnick, *The Epidemiology of Self-*

If Kleck's and English's data are correct, and if for every hundred DGUs only one life is saved, DGUs save approximately 16,000 to 25,000 lives each year, compared to the average of about 10,000 lives lost annually to firearms homicides over the period 2015-2019.<sup>81</sup>

The estimates above relate to all defensive gun uses, whether inside or outside the home. Professor Kleck's research found that 62.1% of DGUs occurred outside the home.<sup>82</sup> English's survey found that almost 75% of DGUs took place outside the four walls of the home.<sup>83</sup> Thus, recognition of the right to carry outside the home will help protect lives and reduce crime in the locations where the majority of DGUs occur.

It is untrue that using a gun to resist crime is ineffective or dangerous, as claimed in the briefing below. Despite having an extremely small sample size,<sup>84</sup> Hemenway and Solnick found that out of thirteen categories of defensive actions taken by

---

*Defense Gun Use: Evidence from the National Crime Victimization Surveys 2007-2011*, 79 Preventive Med. 22 (2015) ("Hemenway & Solnick").

<sup>81</sup> FBI UCR (2019) Table 8, Expanded Homicide Data, Murder Victims by Weapon, 2015-2019, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/expanded-homicide-data-table-8.xls>.

<sup>82</sup> Kleck & Gertz, *supra*, at 185.

<sup>83</sup> English, *2021 National Firearms Survey*, *supra*, at 9. That higher percentage would be expected due to higher rates of legal carry in recent years through shall-issue or permitless systems.

<sup>84</sup> Hemenway & Solnick, *supra*, at 24 (admitting sample is "too small to warrant strong conclusions").

victims, “running away” and “calling police” were “associated with a reduced likelihood of injury *after* taking defensive action; self-defense gun use was not.”<sup>85</sup> It is misleading to compare scenarios where “running away” or “calling police” are possible to scenarios where a gun is used defensively, which usually occur only when no options are left. Contrary to the claim that “when victims use a gun in self-defense, doing so does not make them safer,”<sup>86</sup> the Hemenway and Solnick study actually shows that there is a *lower* likelihood of injury *at any time* during an incident when a gun was used in self-defense.<sup>87</sup>

It is also untrue that “those carrying a gun are five times more likely to be shot in the course of an assault than are assault victims not wielding a gun,” as New York asserted below.<sup>88</sup> According to criminologist Kleck:

“[A]t no point did these authors assess the outcomes of even a single DGU. They never compared any crime victims who used guns defensively with victims who did not. Instead, using a local Philadelphia sample they merely compared people who were shot in assaults with the rest of the population

---

<sup>85</sup> *Id.* (emphasis added).

<sup>86</sup> Giffords Br., *supra*, at 8.

<sup>87</sup> Hemenway & Solnick, *supra*, at 25.

<sup>88</sup> Br. for Appellees at 36, ECF No. 38 (citing Charles C. Branas, et al., *Investigating the Link Between Gun Possession and Gun Assault*, 99 Am. J. Pub. Health 2034, 2034-2040 (2009) (“Branas article”)).

and found that gun possession was more common among gunshot assault victims than among nonvictims.<sup>89</sup>

The authors of the Branas article “concluded that gun possession raises one’s risks of being shot.” But that is likely a case of “reverse causation.” As noted above, most shootings involve individuals with criminal records shooting other individuals with criminal records, where both victim and shooter may well be armed.

Outside of gun control polemics, everyone agrees that firearms deter criminals. That’s why wealthy people and persons in high political office have armed security details. It’s why law enforcement officers carry firearms on duty and often off duty. It’s also why law enforcement supported the enactment of the Law Enforcement Officer Safety Act (LEOSA),<sup>90</sup> allowing qualified current or retired officers to carry concealed throughout the United States regardless of local laws to the contrary. Carrying firearms for defense works.

**B. Law enforcement overwhelmingly supports the right of law-abiding citizens to carry concealed firearms.**

Research shows that law enforcement officers want law-abiding citizens to be armed, because they know that concealed carry by them helps reduce

---

<sup>89</sup> Gary Kleck, *How Hemenway and Solnick Distorted the Effectiveness of Defensive Gun Use*, unpaginated (2020) (discussing Branas article as well as Hemenway and Solnick), <https://ssrn.com/abstract=3659333>.

<sup>90</sup> 18 U.S.C § 926B and U.S.C. § 926C.

crime.

The national law enforcement organization PoliceOne conducted a large survey in 2013, receiving 15,595 responses from verified police professionals across all ranks and department sizes.<sup>91</sup> Respondents were asked: “Do you support the concealed carry of firearms by civilians who have not been convicted of a felony and/or not been deemed psychologically/medically incapable?”<sup>92</sup> The results were overwhelming: 91.3% of the respondents selected “Yes, without question and without further restrictions.”

They were also asked: “On a scale of one to five ... how important do you think legally-armed citizens are to reducing crime rates overall?”<sup>93</sup> Over half (54.7%) of these professionals believed legally-armed citizens should be given the top ranking score of “five.” A total of 90.4% ranked legally-armed citizens as being in the range of three to five on the scale of importance.<sup>94</sup>

Police leadership shares that view. In 2018, the National Association of Chiefs of Police posted the results of their 31<sup>st</sup> Annual Survey, which surveyed “a broad cross section of professional command officers involving every state and every size

---

<sup>91</sup> POLICEONE, GUN POLICY & LAW ENFORCEMENT SURVEY (2013), [https://media.cdn.lexipol.com/p1\\_gunsurveysummary\\_2013.pdf](https://media.cdn.lexipol.com/p1_gunsurveysummary_2013.pdf).

<sup>92</sup> *Id.*, Question 19.

<sup>93</sup> *Id.*, Question 20.

<sup>94</sup> *Id.*

department.”<sup>95</sup> When asked “can qualified, law-abiding armed citizens help law enforcement reduce violent crime?”, 79% said “Yes,” and only 16% said No.” Regarding concealed carry specifically, the chiefs and sheriffs were asked, “Do you support nationwide recognition of state issued concealed weapon permits?”, to which 85% answered “Yes,” seven times more than the 12% who answered “No.”

**C. The outbreak of murders and shootings in 2020 underscores the need for individual self-defense.**

The unprecedented violence that began after the death of George Floyd on May 25, 2020, underscores the fact that individuals ultimately are their own first responders. When politicians and prosecutors failed to take action against the mob violence and accelerating criminality that ensued, many law-abiding citizens saw starkly that (through no fault of law enforcement agencies or personnel themselves), they could no longer count on police protection.

Jason Johnson, President of the Law Enforcement Legal Defense Fund and former deputy police commissioner for Baltimore (2016-18), has assembled compelling data regarding the effects on public safety when politicians defund and demoralize the police.<sup>96</sup>

---

<sup>95</sup> <http://www.nacoponline.org/surveyresults>.

<sup>96</sup> The outbreak in homicides and shootings is unlikely to have resulted from COVID or increased firearms sales, but appears to stem from de-policing. Paul G. Cassell, *Explaining the Recent Homicide Spikes in U.S. Cities: The "Minneapolis Effect" and the Decline in Proactive Policing*, 33 Fed. Sent’g Rep. 83 (2020).

“Last year, the United States tallied more than 20,000 murders—the highest total since 1995 and 4,000 more than in 2019. Preliminary FBI data for 2020 points to a 25% surge in murders—the largest single year increase since the agency began publishing uniform data in 1960.”<sup>97</sup>

“[T]he New York Police Department logged 45,000 fewer arrests from June to December [of 2020]—a 38% decline” while the City “added more than 100 additional homicides (a 58% increase).”<sup>98</sup> From May 2020 to May 2021, the number of shooting victims in New York City was up 78.6%, and in the Bronx the number was up 165.7%.<sup>99</sup>

Mr. Johnson reported that:

From June through the end of this February, Chicago’s police made 31,000 fewer arrests—a 53% decline as murders rose 65%. In Louisville . . . homicides jumped 87% as the police made 35% fewer vehicle stops since June while arrests plummeted 42% during

---

<sup>97</sup> Jason Johnson, *Why violent crime surged after police across America retreated*, USA TODAY (Apr. 9, 2021), <https://www.usatoday.com/story/opinion/policing/2021/04/09/violent-crime-surged-across-america-after-police-retreated-column/7137565002/>.

<sup>98</sup> *Id.*

<sup>99</sup> Heather Mac Donald, *A Year After George Floyd’s Murder, It’s “Open Season” in Minneapolis*, WALL STREET JOURNAL (May 24, 2021), <https://www.wsj.com/articles/a-year-after-george-floyds-murder-its-open-season-in-minneapolis-11621893383>.

summer months compared with 2019.<sup>100</sup>

Murders began to rival the most deadly places in the world, often directly tied to actions by local governments. “Already bloody St. Louis hit a 50-year homicide high, a rate of 87 per 100,000 residents—a rate three times higher than Mexico and Central America. As Milwaukee announced slashing 120 officers from its police force, the city saw a 98% increase in killings.”<sup>101</sup>

Prosecutors who failed to enforce the law often contributed to the wave of violence:

Philadelphia hit a 30-year high with 500 homicide victims in 2020 and more than 100 in 2021 so far. As progressive District Attorney Larry Krasner has dropped 50% of both drug and illegal gun cases, police have reduced vehicle and pedestrian stops by 72%.... Police Commissioner Danielle Outlaw grudgingly admitted that public officials’ attacks demoralized police, encouraging de-policing.<sup>102</sup>

“Over the summer, Portland Mayor Ted Wheeler ‘defunded’ the Portland Police Bureau by \$12 million and eliminated three police units. As chaos engulfed the city, shootings went up 173% and murders jumped

---

<sup>100</sup> Johnson, *Why violent crime surged, supra*.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*



an astounding 255%.”<sup>103</sup>

It’s the same story in many other cities. In Atlanta, “[P]olice have investigated 64 homicide cases in 2021, a 58% increase over this time last year.... Meanwhile, overall arrests are down by about 43% as Atlanta’s police force remains more than 400 officers under its authorized level.”<sup>104</sup>

As described in the Wall Street Journal, “Minneapolis homicides between Jan. 1 and [late May 2021] were up 108% compared with the same period in 2020; shootings were up 153%, and carjackings 222%. The crime increase began after Floyd’s death and has never let up.”<sup>105</sup>

Los Angeles Sheriff Alex Villanueva reported on June 2, 2021, that murders in the county have spiked by 95.24% so far this year compared to the same period in 2020. Villanueva blamed politicians and cuts to the LASD’s budget, stating that LASD’s budget was cut by \$145 million, as the result of which the department lost 1,130 positions, with an additional planned defunding by the Board of Supervisors of \$143 million.<sup>106</sup>

---

<sup>103</sup> *Id.*

<sup>104</sup> Shaddi Abusaid, *After historically deadly 2020, Atlanta homicides are up nearly 60% in 2021*, ATLANTA JOURNAL-CONSTITUTION (June 11, 2021), [https://www.ajc.com/news/after-historically-deadly-2020-atlanta-homicides-are-up-nearly-60-in-2021/N63RJ5OKQZCZVOCNH2D6376S3E/#\\_blank](https://www.ajc.com/news/after-historically-deadly-2020-atlanta-homicides-are-up-nearly-60-in-2021/N63RJ5OKQZCZVOCNH2D6376S3E/#_blank).

<sup>105</sup> Mac Donald, *A Year After George Floyd’s Murder*, *supra*.

<sup>106</sup> Stephanie Pagonis, *Over 440 LA County deputies have left this year, as sheriff calls violence, homelessness “existential threats,”* FOX NEWS (Jun. 4, 2021), <https://www.foxnews.com/us>

Villanueva announced that his department would be issuing more concealed carry permits, and tied that decision to the increase in crime. “We’re recognizing that the threat to the residents is increasing, so we’re responding accordingly,” he said.<sup>107</sup> Citizens have recognized this, too, and in 2020 firearms sales rocketed to more than twenty-one million, an unprecedented 60% increase over 2019.<sup>108</sup>

In the best of times, police cannot protect most individuals from attack. With many cities pulling back police protection, citizens are left on their own even more often. The right of armed self-defense enshrined in the Second Amendment should be confirmed by this Court to protect the right to carry where it is most frequently needed: outside the home.

## CONCLUSION

The decision below should be reversed.

---

/los-angeles-county-deputies-sheriff-violence-homelessness.

<sup>107</sup> Stephanie Pagonis, *Murder in LA County jumps over 95% so far this year, concealed carry permits on the rise: sheriff*, FOX NEWS (Jun. 3, 2021), <https://www.foxnews.com/us/murders-los-angeles-county-compared-sheriff-says>.

<sup>108</sup> Joe Bartozzi, *Taking Stock of Record-Setting 2020 Firearm Year*, NSSF (Jan. 7, 2021), <https://www.nssf.org/articles/taking-stock-of-record-setting-2020-firearm-year/>.

37

Respectfully submitted,

Dan M. Peterson  
Dan M. Peterson PLLC  
3925 Chain Bridge Road  
Suite 403  
Fairfax, Virginia 22030  
(703) 352-7276  
dan@danpetersonlaw.com

Counsel for *Amici Curiae*

July 20, 2021