

APPENDIX VOLUME III

DECLARATION OF LOUIS KLAREVAS

I, Louis Klarevas, declare:

1. I have been asked by the Defendants to prepare an expert Declaration addressing the relationship between assault weapons, large-capacity magazines (LCMs), and mass shootings, including how restrictions on assault weapons and LCMs impact mass shooting violence. This 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 Declaration (“Declaration” 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.¹

3. I am a political scientist by training, with a B.A. from the University of Pennsylvania and a Ph.D. from American University. My current research examines the nexus between American public safety and gun violence, including serving as an investigator in a study funded by the National Institutes of Health that is focused on reducing intentional shootings at elementary and secondary schools.

4. During the course of my 20-year career as an academic, I have served on the faculties of the George Washington University, the City University of New York, New York University, and the University of Massachusetts. I have also served as a Defense Analysis Research Fellow at the London School of Economics and Political Science and as United States Senior Fulbright Scholar in Security Studies at the University of Macedonia.

5. In addition to having made well over 100 media and public-speaking appearances, I am the author or co-author of more than 20 scholarly articles and over 70 commentary pieces. In 2019, my peer-reviewed article on the effectiveness of restrictions on LCMs in reducing high-

¹ Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (2016).

fatality mass shootings resulting in six or more victims killed was published in the *American Journal of Public Health*.² This study found that jurisdictions with LCM bans experienced substantially lower gun massacre incidence and fatality rates when compared to jurisdictions not subject to similar bans. Despite being over 3 years old now, this study continues to be one of the highest impact studies in academia. It was recently referred to as “the perfect gun policy study,” in part due to the study’s “robustness and quality.”³

6. In the past four years (since January 1, 2019), I have been deposed, testified in court, or testified by declaration in the following cases: *Duncan v. Becerra*, United States District Court for the Southern District of California, Case Number 17-cv-1017-BEN-JLB; *Miller v. Bonta*, Case No. 3:19-cv-1537-BEN-JBS, United States District Court for the Southern District of California; *Jones v. Bonta*, United States District Court for the Southern District of California, Case Number 19-cv-01226-L-AHG; *Nguyen v. Bonta*, Case No. 3:20-cv-02470-WQH-MDD, United States District Court for the Southern District of California; *Rupp v. Bonta*, United States District Court for the Eastern District of California, Case Number 17-cv-00903-WBS-KJN; *Brumback v. Ferguson*, United States District Court for the Eastern District of Washington, Case Number 22-cv-03093-MKD; *National Association for Gun Rights v. Highland Park*, United States District Court for the Northern District of Illinois, Case Number 22-cv-04774; *National Association for Gun Rights v. Campbell*, United States District Court for the District of Massachusetts, Case Number 22-cv-11431-FDS; *National Association for Gun Rights*

² Louis Klarevas, et al., “The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings,” 109 *American Journal of Public Health* 1754 (2019), available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311> (last accessed February 11, 2023).

³ Lori Ann Post and Maryann Mason, “The Perfect Gun Policy Study in a Not So Perfect Storm,” 112 *American Journal of Public Health* 1707 (2022), available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2022.307120> (last accessed February 11, 2023). According to Post and Mason, “Klarevas et al. employed a sophisticated modeling and research design that was more rigorous than designs used in observational studies. Also, they illustrated the analytic steps they took to rule out alternative interpretations and triangulate their findings, for example examining both state bans and federal bans. They helped build the foundation for future studies while overcoming the limitations of previous research.” *Ibid*.

v. Lamont, United States District Court for the District of Connecticut, Case No. 3:22-cv-01118-JBA; and *Oregon Firearms Federation v. Kotek*, United States District Court for the District of Oregon, Case No. 2:22-cv-01815-IM. This latter case includes three additional consolidated cases: *Fitz v. Rosenblum*, United States District Court for the District of Oregon, Case No. 3:22-cv-01859-IM; *Eyre v. Rosenblum*, United States District Court for the District of Oregon, Case No. 3:22-cv-01862-IM; and *Azzopardi v. Rosenblum*, United States District Court for the District of Oregon, Case No. 3:22-cv-01869-IM.

7. In 2021, I was retained by the Government of Canada in the following cases which involved challenges to Canada's regulation of certain categories of firearms: *Parker and K.K.S. Tactical Supplies Ltd. v. Attorney General of Canada*, Federal Court, Court File No.: T-569-20; *Canadian Coalition for Firearm Rights, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-577-20; *Hipwell v. Attorney General of Canada*, Federal Court, Court File No.: T-581-20; *Doherty, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-677-20; *Generoux, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-735-20; and *Eichenberg, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-905-20. I testified under oath in a consolidated court proceeding involving all six cases in the Federal Court of Canada.

8. A true and correct copy of my current curriculum vitae is attached as **Exhibit A** to this Declaration.

9. I have been retained by the Office of the Attorney General of Illinois to provide expert testimony in litigation challenging various aspects of Illinois Public Act 102-1116, also known as the Protect Illinois Communities Act. As of the date of this Declaration, the scope of my engagement includes providing expert testimony in the following cases: *Harrel v. Raoul*, Case No. 23-cv-141-SPM (S.D. Ill.); *Langley v. Kelly*, Case No. 23-cv-192-NJR (S.D. Ill.); *Barnett v. Raoul*, 23-cv-209-RJD (S.D. Ill.); *Federal Firearms Licensees of Illinois v. Pritzker*, 23-cv-215-NJR (S.D. Ill.); and *Herrera v. Raoul*, 23-cv-532 (N.D. Ill.). I have reviewed the provisions of Public Act 102-1116 being challenged in this case. I am being

compensated at a rate of \$480/hour for my work on this Declaration, \$600/hour for any testimony in connection with this matter, and \$120/hour for travel required to provide testimony.

OPINIONS

10. It is my professional opinion, based upon my extensive review and analysis of the data, that (1) in terms of individual acts of intentional criminal violence, mass shootings presently pose the deadliest threat to the safety of American society in the post-9/11 era, and the problem is growing nationwide; (2) high-fatality mass shootings involving assault weapons and/or LCMs, on average, have resulted in a substantially larger loss of life than similar incidents that did not involve assault weapons and/or LCMs; (3) mass shootings resulting in double-digit fatalities are relatively modern phenomena in American history, largely related to the use of assault weapons and LCMs; (4) assault weapons are used by private citizens with a far greater frequency to perpetrate mass shootings than to stop mass shootings; (5) handguns, as opposed to rifles (let alone rifles that qualify as assault weapons), are the most commonly owned firearms in the United States; and (6) states that restrict both assault weapons and LCMs experience fewer high-fatality mass shooting incidents and fatalities, per capita, than states that do not restrict assault weapons and LCMs. Based on these findings, it is my opinion that restrictions on assault weapons and LCMs have the potential to save lives by reducing the frequency and lethality of gun massacres.⁴

⁴ For purposes of this Declaration, mass shootings are defined in a manner consistent with my book *Rampage Nation*, *supra* note 1 (*see* Excerpt Attached as **Exhibit B**). “Mass shootings” are shootings resulting in four or more victims being shot (fatally or non-fatally), regardless of location or underlying motive. As a subset of mass shootings, “high-fatality mass shootings” (also referred to as “gun massacres”) are defined as shootings resulting in 6 or more victims being shot to death, regardless of location or underlying motive. The data on high-fatality mass shootings is from a data set that I maintain and continuously update. This data set is reproduced in **Exhibit C**. Unless stated otherwise, all of the data used to perform original analyses and to construct tables and figures in Sections I, II, and VI of this Declaration are drawn from **Exhibit C**.

I. MASS SHOOTINGS ARE A GROWING THREAT TO PUBLIC SAFETY

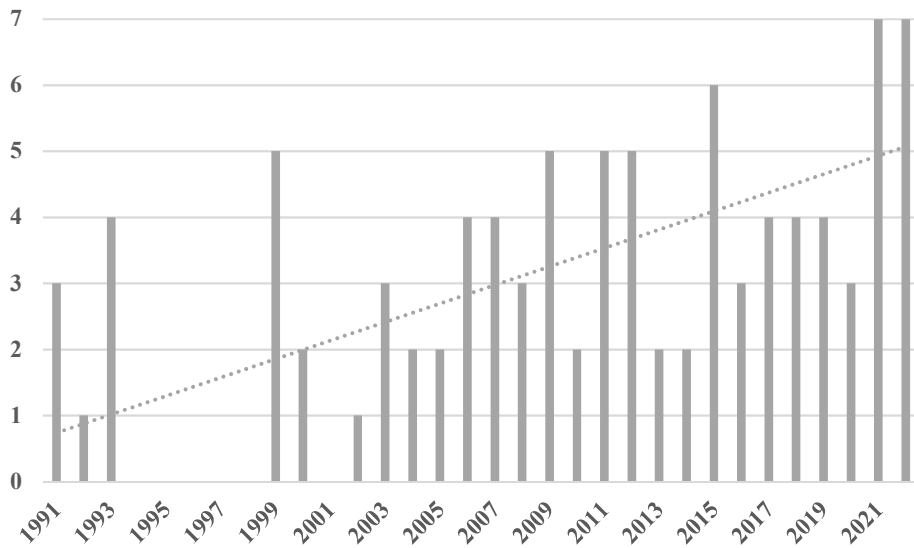
11. Examining mass-casualty acts of violence in the United States since 1991 points to two disturbing patterns.⁵ First, as demonstrated in Table 1, the deadliest individual acts of intentional criminal violence in the United States since the terrorist attack of September 11, 2001, have all been mass shootings. Second, as displayed in Figures 1-2, the problem of high-fatality mass shooting violence is on the rise. To put the increase over the last three decades into perspective, between the 1990s and the 2010s, the average population of the United States increased approximately 20%. However, when the number of people killed in high-fatality mass shootings in the 1990s is compared to the number killed in such incidents in the 2010s, it reflects an increase of 260%. In other words, the rise in mass shooting violence has far outpaced the rise in national population—by a factor of 13. The obvious takeaway from these patterns and trends is that mass shootings pose a significant—and growing—threat to American public safety.

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

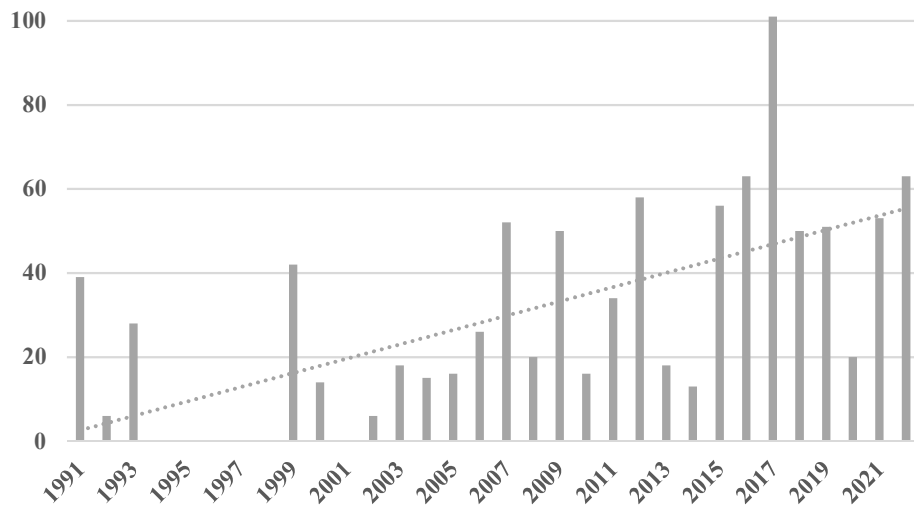
⁵ Because the analysis in Section VI of this Declaration necessarily uses data from 1991 through 2022, for purposes of consistency (and to avoid any confusion), the analyses in Sections I and II also use data from 1991 through 2022.

Figure 1. Annual Trends in High-Fatality Mass Shooting Incidents, 1991-2022



Note: The dotted line is a linear trendline. A linear trendline is a straight line that captures the overall pattern of the individual data points. When there is a positive relationship between the x-axis and y-axis variables, the trendline moves upwards from left to right. When there is a negative relationship between the x-axis and y-axis variables, the trendline moves downwards from left to right.

Figure 2. Annual Trends in High-Fatality Mass Shooting Fatalities, 1991-2022



Note: The dotted line is a linear trendline. A linear trendline is a straight line that captures the overall pattern of the individual data points. When there is a positive relationship between the x-axis and y-axis variables, the trendline moves upwards from left to right. When there is a negative relationship between the x-axis and y-axis variables, the trendline moves downwards from left to right.

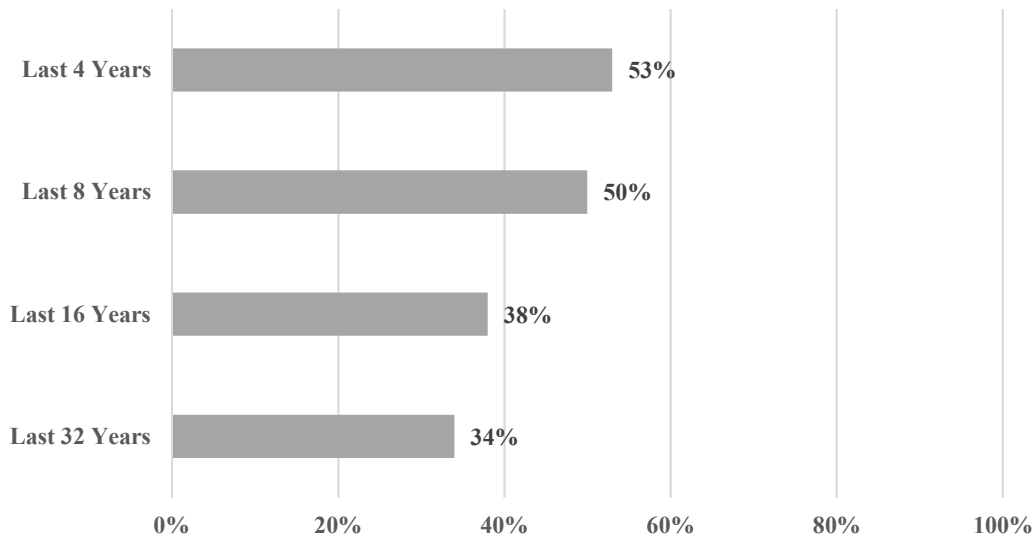
II. THE USE OF ASSAULT WEAPONS AND LCMs ARE MAJOR FACTORS IN THE RISE OF MASS SHOOTING VIOLENCE

12. In addition to showing that the frequency and lethality of high-fatality mass shootings are on the rise nationally, the data point to another striking pattern: both assault weapons and LCMs are being used with increased frequency to perpetrate gun massacres.⁶ As shown in Figures 3-5, based on high-fatality mass shootings where details allow a determination on the use of assault weapons and LCMs are available, the pattern is particularly marked of late, with over half of all incidents in the last four years involving assault weapons, all incidents in the last four years involving LCMs having a capacity greater than 10 bullets, regardless of the type of firearm (“federal definition” hereinafter), and four out of five incidents involving LCMs having a capacity greater than 10 bullets for long guns and greater than 15 bullets for handguns, as defined by Illinois statute (“Illinois definition” hereinafter). As shown in Figures 6-8, a similar pattern is found when examining deaths in high-fatality mass shootings in the last four

⁶ Assault weapons are generally semiautomatic firearms that fall into one of the following three categories: assault pistols, assault rifles, and assault shotguns. For purposes of this Declaration, unless otherwise stated, assault weapons are defined and coded in a manner consistent with **Exhibit C**. Per the 1994 federal ban definition, LCMs are generally ammunition-feeding devices with a capacity greater than 10 bullets. Under Illinois statute (720 ILCS 5/24-1.10), LCM capacity thresholds are set at greater than 10 bullets for long guns and greater than 15 bullets for handguns. For purposes of this Declaration, unless otherwise stated, LCMs will be defined in a manner consistent with the 1994 federal ban on LCMs, which defined them as ammunition-feeding devices with a capacity greater than 10 bullets. The ammunition threshold of the 1994 federal definition (more than 10 bullets) is identical to that of the definition of LCMs in several local ordinances in Illinois, including Highland Park and Cook County. However, where appropriate, statistics relating to the Illinois definition of LCMs will be discussed. While the term “assault weapons” as referenced in the present case is defined by statute, the modern-day roots of the term can be traced back to the 1980s, when gun manufacturers branded military-style firearms with the label in an effort to make them more marketable to civilians. See, Violence Policy Center, *Assault Weapons and Accessories in America* (1988) (Attached as **Exhibit D**); Violence Policy Center, *Bullet Hoses: Semiautomatic Assault Weapons—What Are They? What’s So Bad about Them?* (2003) (Attached as **Exhibit E**); Phillip Peterson, *Gun Digest Buyer’s Guide to Assault Weapons* (2008) (Relevant Excerpt Attached as **Exhibit F**); and Erica Goode, “Even Defining ‘Assault Rifles’ Is Complicated,” *New York Times*, January 16, 2013, available at <https://www.nytimes.com/2013/01/17/us/even-defining-assault-weapons-is-complicated.html> (last accessed January 24, 2023).

years, with 62% of deaths resulting from incidents involving assault weapons, 100% of deaths resulting from incidents involving LCMs as defined by the 1994 federal statute, and 82% of deaths resulting from incidents involving LCMs as defined by Illinois statute. These trends clearly demonstrate that, among perpetrators of gun massacres, there is a growing preference for using assault weapons and LCMs to pull off their attacks.⁷

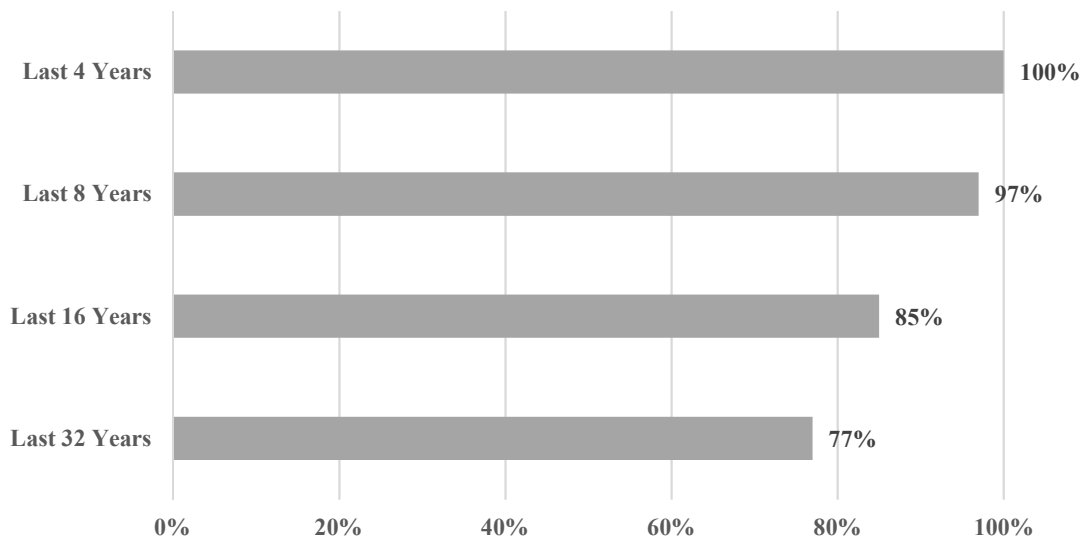
Figure 3. Share of High-Fatality Mass Shooting Incidents Involving Assault Weapons, 1991-2022



Note: The calculations in Figure 3 exclude incidents in which the firearms used are unknown.

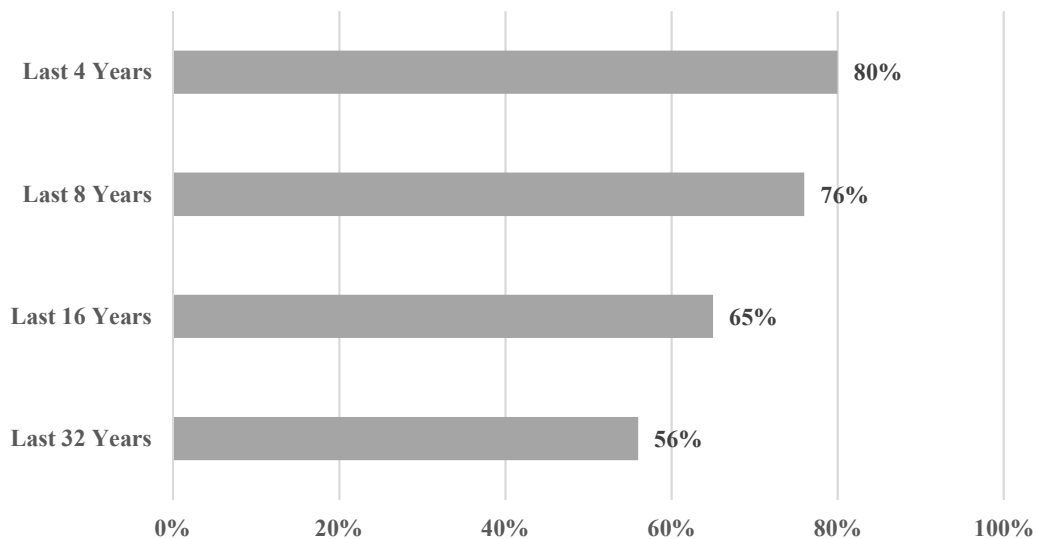
⁷ Out of all 93 high-fatality mass shootings in the United States between 1991 and 2022, it cannot be determined whether LCMs were used in 14 of those incidents. Furthermore, for 2 of these 14 incidents, it is also not possible to determine whether they involved assault weapons. Therefore, the tables, figures, and percentages discussed in this section of the Declaration are based on calculations that only use data points from the incidents in which the involvement of assault weapons and/or LCMs could be determined.

Figure 4. Share of High-Fatality Mass Shooting Incidents Involving LCMs (Federal Definition of LCMs), 1991-2022



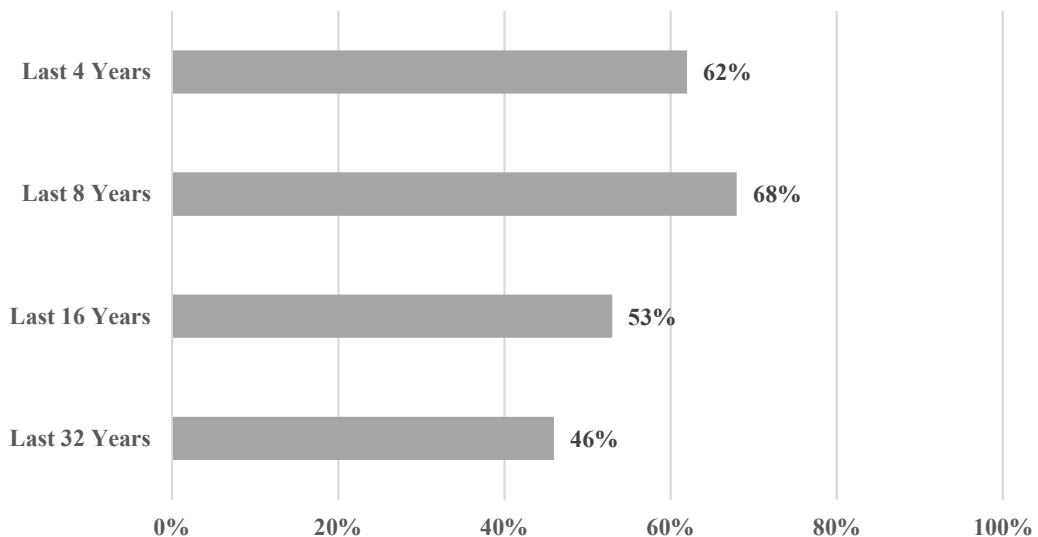
Note: The calculations in Figure 4 exclude incidents in which it is unknown if LCMs were used.

Figure 5. Share of High-Fatality Mass Shooting Incidents Involving LCMs (Illinois Definition of LCMs), 1991-2022



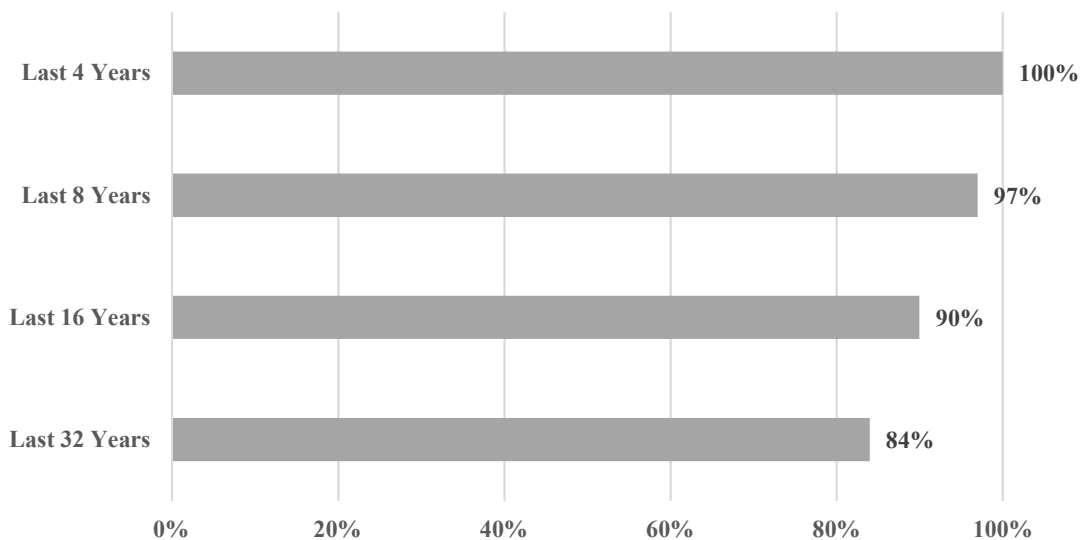
Note: The calculations in Figure 5 exclude incidents in which it is unknown if LCMs were used.

Figure 6. Share of High-Fatality Mass Shooting Deaths Resulting from Incidents Involving Assault Weapons, 1991-2022



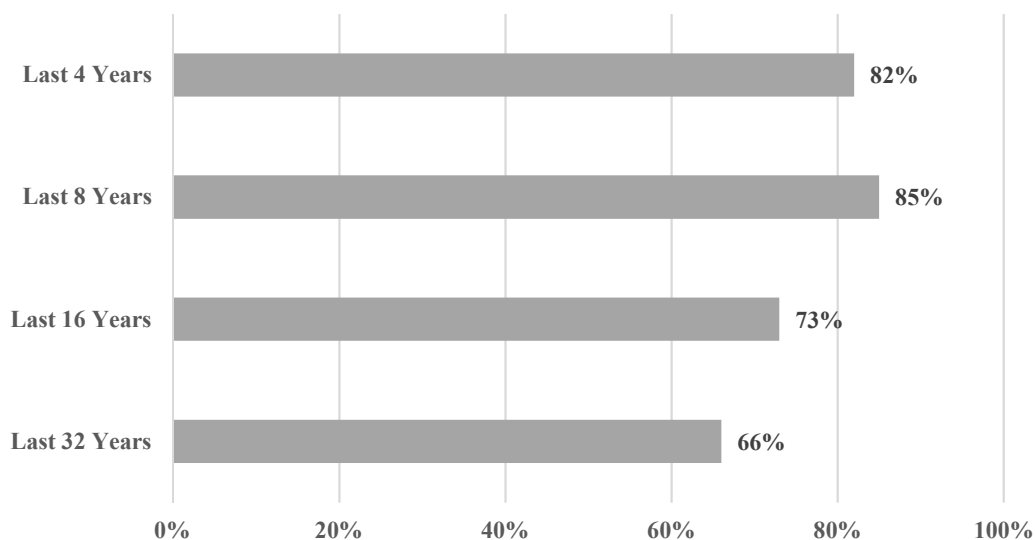
Note: The calculations in Figure 6 exclude incidents in which the firearms used are unknown.

Figure 7. Share of High-Fatality Mass Shooting Deaths Resulting from Incidents Involving LCMs (Federal Definition of LCMs), 1991-2022



Note: The calculations in Figure 7 exclude incidents in which it is unknown if LCMs were used.

Figure 8. Share of High-Fatality Mass Shooting Deaths Resulting from Incidents Involving LCMs (Illinois Definition of LCMs), 1991-2022



Note: The calculations in Figure 8 exclude incidents in which it is unknown if LCMs were used.

13. The growing use of assault weapons to carry out high-fatality mass shootings is an obvious theme reflected in the data. The *disproportionate* resort to assault weapons by perpetrators of high-fatality mass shootings is another clear theme. Based on National Sport Shooting Foundation (NSSF) and federal government data, “modern sporting rifles”—which is a firearm industry term for AR-15-platform and AK-47-platform firearms—make up approximately 5.3% of all firearms in circulation in American society, according to the most recent publicly-available data (24.4 million out of an estimated 461.9 million firearms).⁸ And, in

⁸ The 5.3% ownership rate for modern sporting rifles was calculated using NSSF and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) data. The NSSF estimates that there are approximately 24.4 million modern sporting rifles in civilian hands in the United States as of the end of 2020 (when the most recent data are available). NSSF, “Commonly Owned: NSSF Announces over 24 Million MSRs in Circulation,” July 20, 2022, *available at* <https://www.nssf.org/articles/commonly-owned-nssf-announces-over-24-million-msrs-in-circulation> (last accessed January 3, 2023). In a 2020 report that captured data through the end of 2018, the NSSF estimated that there were 433.9 million total firearms in civilian circulation in the United States. NSSF, *Firearm Production in the United States with Firearm Import and Export Data*, Industry Intelligence Report, 2020, at 18, *available at* <https://www.nssf.org/wp-content/uploads/2020/11/IIR-2020-Firearms-Production-v14.pdf> (last accessed January 3, 2023).

all likelihood, this is an over-estimation because the figures appear to include firearms belonging to law enforcement agencies in the United States.⁹ But even using this estimate (which is based in part on NSSF data), if assault weapons were used in proportion to the percentage of modern sporting rifles in circulation, approximately 5% of all high-fatality mass shootings would involve assault weapons. However, as seen in Figure 3 above, civilian ownership rates and mass-shooter use rates are not similar. Indeed, the current difference is approximately ten-fold, with the rate at which assault weapons are now used to commit gun massacres far outpacing the rate at which modern sporting rifles circulate amongst civilians in the United States.¹⁰

14. Another pattern that stands out when examining the relationship between assault weapons use and mass shooting violence reflects the disproportionately greater lethality associated with the use of assault weapons and LCMs. 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, 6 of the 7 incidents (86%) involved assault weapons and LCMs, as shown in Table 2. When examining all high-fatality mass shootings since 1991, the relationship between assault weapons use, LCM use, and higher death tolls is striking. In the past 32 years, assault weapons have been used in 34% of all high-fatality mass shootings, and LCMs as defined by the federal government and by Illinois have been used, respectively, in 77% and 56% of all high-fatality

According to ATF data, in 2019 and 2020, an additional 28.0 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> (last accessed January 3, 2023). Assuming these figures reported by the NSSF and ATF 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 approximately 5.3%.

⁹ ATF, 2022, *supra* note 8, at 12; NSSF, 2020, *supra* note 8, at 2-3.

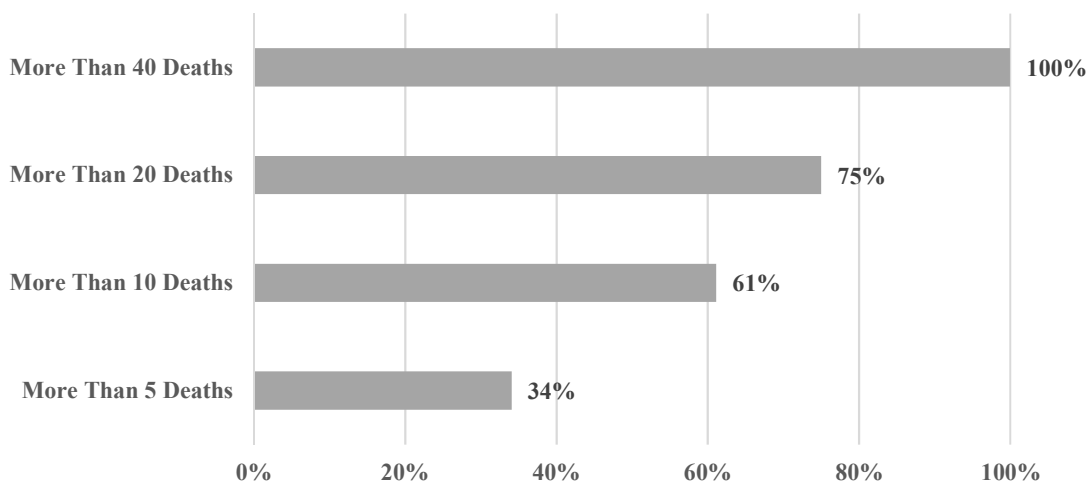
¹⁰ Due to the lack of accurate data on the number of LCMs in civilian circulation, there is no way to perform a similar comparison using LCMs instead of modern sporting rifles.

mass shootings. However, as the fatality thresholds of such incidents increase, so too do the shares of incidents involving assault weapons and LCMs. For instance, assault weapons were used in 75% of all mass shootings resulting in more than 20 deaths, and LCMs as defined by the federal government and by Illinois were used, respectively, in 100% and 88% of all mass shootings resulting in more than 20 deaths (Figures 9-11). As the data show, there is an association between mass shooting lethality and the use of assault weapons and LCMs.

Table 2. The Use of Assault Weapons and LCMs in the Deadliest Acts of Intentional Criminal Violence in the U.S. since 9/11

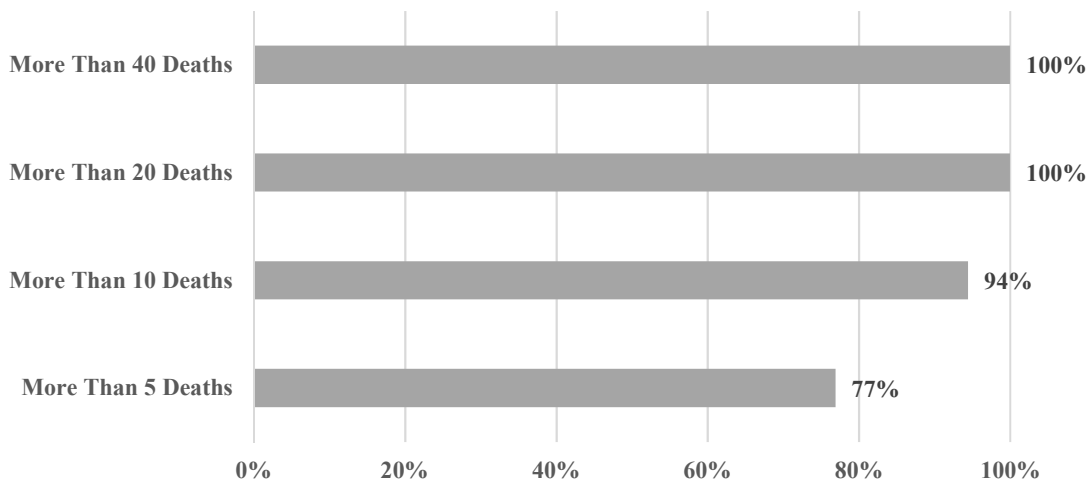
Deaths	Date	Location	Involved Assault Weapons	Involved LCMs (Federal Definition)	Involved LCMs (Illinois Definition)
60	10/1/2017	Las Vegas, NV	✓ (AR-15)	✓	✓
49	6/12/2016	Orlando, FL	✓ (AR-15)	✓	✓
32	4/16/2007	Blacksburg, VA		✓	
27	12/14/2012	Newtown, CT	✓ (AR-15)	✓	✓
25	11/5/2017	Sutherland Springs, TX	✓ (AR-15)	✓	✓
23	8/3/2019	El Paso, TX	✓ (AK-47)	✓	✓
21	5/24/2022	Uvalde, TX	✓ (AR-15)	✓	✓

Figure 9. Percentage of High-Fatality Mass Shootings Involving Assault Weapons by Fatality Threshold, 1991-2022



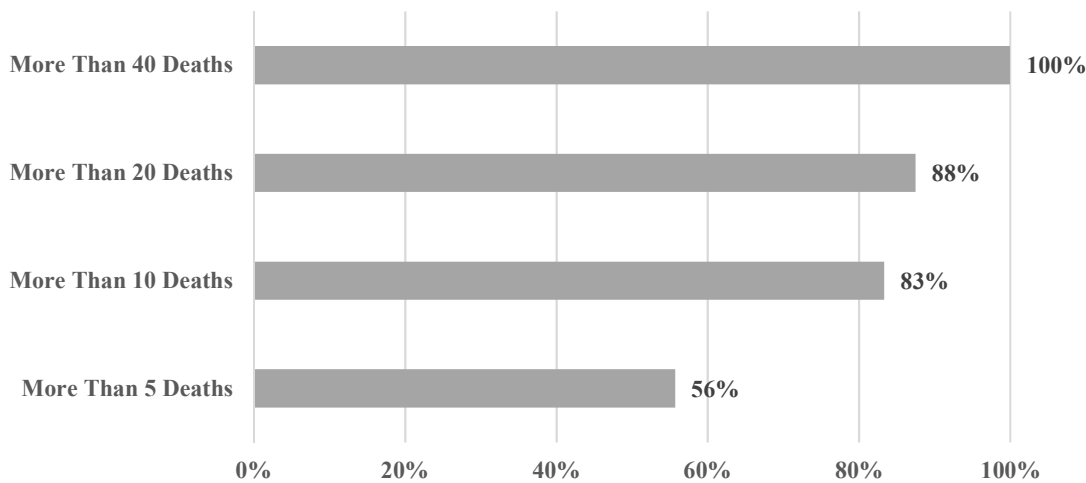
Note: The calculations in Figure 9 exclude incidents in which the firearms used are unknown.

Figure 10. Percentage of High-Fatality Mass Shootings Involving LCMs (Federal Definition of LCMs) by Fatality Threshold, 1991-2022



Note: The calculations in Figure 10 exclude incidents in which it is unknown if LCMs were used.

Figure 11. Percentage of High-Fatality Mass Shootings Involving LCMs (Illinois Definition of LCMs) by Fatality Threshold, 1991-2022



Note: The calculations in Figure 11 exclude incidents in which it is unknown if LCMs were used.

15. Of the 91 high-fatality mass shootings since January 1, 1991, in which the type of firearm used is known, 31 involved assault weapons, resulting in 425 deaths. The average death toll for these 31 incidents is 13.7 fatalities per shooting. By contrast, the average death toll for the 60 incidents in which it is known assault weapons were not used (which resulted in 490 fatalities) is 8.2 fatalities per shooting (Table 3). Furthermore, defining LCMs using the capacity threshold of the 1994 federal ban, of the 79 high-fatality mass shootings since January 1, 1991, in which LCM use was determined, 61 involved LCMs, resulting in 704 deaths. The average death toll for these 61 incidents is 11.5 fatalities per shooting. The average death toll for the 18 incidents in which it is known LCMs were not used (which resulted in 132 fatalities) is 7.3 fatalities per shooting (Table 4). Reviewing the same 79 incidents for LCM involvement using the capacity threshold of the 2023 Illinois ban, 44 involved LCMs, resulting in 553 deaths. The average death toll for these 44 incidents is 12.6 fatalities per shooting. The average death toll for the 35 incidents in which it is known LCMs were not used (which resulted in 283 fatalities) is 8.1 fatalities per shooting (Table 4). In other words, in the last 32 years, the use of assault weapons and both types of LCMs (federal and Illinois definitions) in gun massacres has, correspondingly, resulted in 67%, 58%, and 56% increases in average fatalities per incident (Tables 3-4).

16. Tables 5 and 6 show the average death tolls per high-fatality mass shooting incident that are attributable to assault weapons beyond deaths associated with the use of LCMs. In terms of the 1994 federal ban's magazine capacity threshold, when LCMs are not used, the average death toll is 7.3 fatalities. When LCMs are used, but not in conjunction with assault weapons, the average death toll is 9.2 fatalities. When LCMs are used with assault weapons, the average death toll is 14.0 fatalities. In terms of the 2023 Illinois ban's magazine capacity threshold, when LCMs are not used, the average death toll is 8.1 fatalities. When LCMs are used, but not in conjunction with assault weapons, the average death toll is 9.6 fatalities. When LCMs are used with assault weapons, the average death toll is 14.0 fatalities. The data show that using LCMs, as defined by the 1994 federal ban, without an assault weapon resulted in a 26%

increase in the average death toll. However, using LCMs, as defined by the 1994 federal ban, with an assault weapon resulted in a 52% increase in the average death toll associated with incidents that involved LCMs without assault weapons and a 92% increase in the average death toll associated with incidents that involved neither LCMs nor assault weapons. The data also show that using LCMs, as defined by the 2023 Illinois ban, without an assault weapon results in a 19% increase in the average death toll. However, using LCMs, as defined by the 2023 Illinois ban, with an assault weapon results in a 46% increase in the average death toll associated with incidents that involved LCMs without assault weapons and a 73% increase in the average death toll associated with incidents that involve neither LCMs nor assault weapons. In other words, regardless of which magazine capacity threshold is used to code incidents, the increase in the death tolls for high-fatality mass shootings that involve LCMs and/or assault weapons is partly attributable to LCMs and partly attributable to assault weapons.

17. This review of the data suggests that assault weapons *and* LCMs are force multipliers when used in mass shootings.

Table 3. The Average Death Tolls Associated with the Use of Assault Weapons in High-Fatality Mass Shootings in the U.S., 1991-2022

	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
1991-2022	8.2 Deaths	13.7 Deaths	67%

Note: The calculations in Table 3 exclude incidents in which the firearms used are unknown.

Table 4. The Average Death Tolls Associated with the Use of LCMs in High-Fatality Mass Shootings in the U.S., 1991-2022

	Average Death Toll for Incidents That Did Not Involve the Use of LCMs	Average Death Toll for Incidents That Did Involve the Use of LCMs	Percent Increase in Average Death Toll Associated with the Use of LCMs
1991-2022 (Federal Definition of LCM)	7.3 Deaths	11.5 Deaths	58%
1991-2022 (Illinois Definition of LCM)	8.1 Deaths	12.6 Deaths	56%

Note: The calculations in Table 4 exclude incidents in which it is unknown if LCMs were used.

Table 5. The Average Death Tolls Associated with the Use of LCMs (Federal Definition of LCMs) and Assault Weapons in High-Fatality Mass Shootings in the U.S., 1991-2022

Average Death Toll for Incidents Not Involving LCMs or AWs	Average Death Toll for Incidents Involving LCMs but Not AWs	Percent Increase	Average Death Toll for Incidents Involving LCMs but Not AWs	Average Death Toll for Incidents Involving LCMs and AWs	Percent Increase	Average Death Toll for Incidents Not Involving LCMs or AWs	Average Death Toll for Incidents Involving LCMs and AWs	Percent Increase
7.3	9.2	26%	9.2	14.0	52%	7.3	14.0	92%

Note: The calculations in Table 5 exclude incidents in which it is unknown if assault weapons or LCMs were used.

Table 6. The Average Death Tolls Associated with the Use of LCMs (Illinois Definition of LCMs) and Assault Weapons in High-Fatality Mass Shootings in the U.S., 1991-2022

Average Death Toll for Incidents Not Involving LCMs or AWs	Average Death Toll for Incidents Involving LCMs but Not AWs	Percent Increase	Average Death Toll for Incidents Involving LCMs but Not AWs	Average Death Toll for Incidents Involving LCMs and AWs	Percent Increase	Average Death Toll for Incidents Not Involving LCMs or AWs	Average Death Toll for Incidents Involving LCMs and AWs	Percent Increase
8.1	9.6	19%	9.6	14.0	46%	8.1	14.0	73%

Note: The calculations in Table 6 exclude incidents in which it is unknown if assault weapons or LCMs were used.

III. DOUBLE-DIGIT-FATALITY MASS SHOOTINGS ARE A POST-WORLD WAR II PHENOMENON IN AMERICAN HISTORY AND THEY INCREASINGLY INVOLVE ASSAULT WEAPONS

18. I have also examined the historical occurrence and distribution of mass shootings resulting in 10 or more victims killed since 1776 (Table 7 and Figure 12). A lengthy search uncovered several informative findings.¹¹ In terms of the origins of this form of extreme gun violence, there is no known occurrence of a mass shooting resulting in double-digit fatalities at any point in time during the 173-year period between the nation's founding in 1776 and 1948. The first known mass shooting resulting in 10 or more deaths occurred in 1949. In other words, for 70% of its 247-year existence as a nation, the United States did not experience a mass shooting resulting in double-digit fatalities, making them a relatively modern phenomena in American history.¹²

19. After the first such incident in 1949, 17 years passed until a similar mass shooting occurred in 1966. The third such mass shooting then occurred 9 years later, in 1975. And the fourth such incident occurred 7 years after, in 1982. Basically, the first few mass shootings resulting in 10 or more deaths did not occur until the post-World War II era. Furthermore, these first few double-digit-fatality incidents occurred with relative infrequency, although the temporal gap between these first four incidents shrank with each event (Table 7 and Figure 13).¹³

¹¹ I searched for firearm-related "murders," using variations of the term, setting a minimum fatality threshold of 10 in the Newspaper Archive online newspaper repository, available at www.newspaperarchive.com (last accessed October 2, 2022). The Newspaper Archive contains local and major metropolitan newspapers dating back to 1607. Incidents of large-scale, inter-group violence such as mob violence, rioting, combat or battle skirmishes, and attacks initiated by authorities acting in their official capacity were excluded.

¹² Using the Constitution's effective date of 1789 as the starting point would lead to the conclusion that, for 68% of its 234-year existence as a nation, the United States did not experience a mass shooting resulting in double-digit fatalities.

¹³ Figures 12-13 are reproduced in larger form as **Exhibit G** of this Declaration.

Table 7. Mass Shootings Resulting in Double-Digit Fatalities in U.S. History, 1776-2022

	Date	Location	Deaths	Involved Assault Weapon(s)	Involved LCM(s)
1	9/6/1949	Camden, NE	13	N	N
2	8/1/1966	Austin, TX	14	N	Y
3	3/30/1975	Hamilton, OH	11	N	N
4	9/25/1982	Wilkes-Barre, PA	13	Y	Y
5	2/18/1983	Seattle, WA	13	N	N
6	4/15/1984	Brooklyn, NY	10	N	N
7	7/18/1984	San Ysidro, CA	21	Y	Y
8	8/20/1986	Edmond, OK	14	N	N
9	10/16/1991	Killeen, TX	23	N	Y
10	4/20/1999	Littleton, CO	13	Y	Y
11	4/16/2007	Blacksburg, VA	32	N	Y
12	3/10/2009	Geneva County, AL	10	Y	Y
13	4/3/2009	Binghamton, NY	13	N	Y
14	11/5/2009	Fort Hood, TX	13	N	Y
15	7/20/2012	Aurora, CO	12	Y	Y
16	12/14/2012	Newtown, CT	27	Y	Y
17	9/16/2013	Washington, DC	12	N	N
18	12/2/2015	San Bernardino, CA	14	Y	Y
19	6/12/2016	Orlando, FL	49	Y	Y
20	10/1/2017	Las Vegas, NV	60	Y	Y
21	11/5/2017	Sutherland Springs, TX	25	Y	Y
22	2/14/2018	Parkland, FL	17	Y	Y
23	5/18/2018	Santa Fe, TX	10	N	N
24	10/27/2018	Pittsburgh, PA	11	Y	Y
25	11/7/2018	Thousand Oaks, CA	12	N	Y
26	5/31/2019	Virginia Beach, VA	12	N	Y
27	8/3/2019	El Paso, TX	23	Y	Y
28	3/22/2021	Boulder, CO	10	Y	Y
29	5/14/2022	Buffalo, NY	10	Y	Y
30	5/24/2022	Uvalde, TX	21	Y	Y

Note: Death tolls do not include perpetrators. An incident was coded as involving an assault weapon if at least one of the firearms discharged was defined as an assault weapon in (1) the 1994 Federal Assault Weapons Ban or (2) the statutes of the state where the gun massacre occurred. An incident was coded as involving an LCM if at least one of the firearms discharged had an ammunition-feeding device holding more than 10 bullets.

shootings resulting in 10 or more deaths: the 1982 Wilkes-Barre, PA, massacre (involving an AR-15 rifle and resulting in 13 deaths) and the 1984 San Ysidro, CA, massacre (involving an Uzi pistol and resulting in 21 deaths). But this cluster of incidents was followed by a 20-year period in which only 2 double-digit-fatality mass shootings occurred (Figure 13). This period of time from 1987-2007 correlates with three important federal firearms measures: the 1986 Firearm Owners Protection Act, the 1989 C.F.R. “sporting use” importation restrictions, and the 1994 Federal Assault Weapons Ban.

21. It is well-documented in the academic literature that, after the Federal Assault Weapons Ban expired in 2004, mass shooting violence increased substantially.¹⁴ 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 (a frequency rate of one incident every 5.6 years). In the 18 years since 2004, there have been 20 double-digit-fatality mass shootings (a frequency rate of one incident every 0.9 years). In other words, the frequency rate has increased over six-fold since the Federal Assault Weapons Ban expired (Table 7 and Figure 13). (The 1994 Federal Assault Weapons Ban and its impact on mass shooting violence is discussed in further detail in Section VI of this Declaration.)

22. Over three-quarters of the mass shootings resulting in 10 or more deaths involved assault weapons and/or LCMs (Table 7). As also shown in the analyses of mass shootings in Section II, death tolls in double-digit-fatality mass shootings are related to the use of firearm technologies like assault weapons and LCMs that, in terms of mass shootings, serve as force multipliers.

¹⁴ See, for example, Louis Klarevas, *supra* note 1 (Relevant Excerpt Attached as **Exhibit H**); Louis Klarevas, et al., *supra* note 2 (Attached as **Exhibit I**); Charles DiMaggio, et al., “Changes in US Mass Shooting Deaths Associated with the 1994-2004 Federal Assault Weapons Ban: Analysis of Open-Source Data,” 86 *Journal of Trauma and Acute Care Surgery* 11 (2019) (Attached as **Exhibit J**); Lori Post, et al., “Impact of Firearm Surveillance on Gun Control Policy: Regression Discontinuity Analysis,” 7 *JMIR Public Health and Surveillance* (2021) (Attached as **Exhibit K**); and Philip J. Cook and John J. Donohue, “Regulating Assault Weapons and Large-Capacity Magazines for Ammunition,” 328 *JAMA*, September 27, 2022 (Attached as **Exhibit L**).

IV. ASSAULT WEAPONS ARE ALMOST NEVER USED BY PRIVATE CITIZENS IN SELF-DEFENSE DURING ACTIVE SHOOTINGS

23. 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 high-fatality mass shootings in the past 32 years (Figure 3). And in the past 8 years, the share of high-fatality mass shootings that has been perpetrated with assault weapons has risen to approximately half (Figure 3).

24. The Federal Bureau of Investigation (FBI) has been documenting active shooter incidents since 2000.¹⁵ According to the FBI, active shootings are violent attacks that involve “one or more individuals actively engaged in killing or attempting to kill people in a populated area.”¹⁶ A simple way to conceptualize active shooter incidents 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 the interventions were successful in stopping the attacks and/or neutralizing the perpetrator(s).

25. 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.¹⁷ Of these 15 DGUs that involved an armed private citizen

¹⁵ 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 Declaration 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.

¹⁶ 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.*

¹⁷ 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.*

intervening, 12 incidents involved handguns.¹⁸ 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.¹⁹ 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.²⁰

26. The bottom line: assault weapons are used by civilians with a far greater frequency to perpetrate mass shootings than to stop mass shootings.²¹

¹⁸ All 12 DGU incidents that involved handguns also involved armed civilians who held valid concealed-carry permits. *Ibid.* In 10 of these 12 incidents, details about the types of handguns used in self-defense were available in news media accounts or in news media photographs of the crime scene. In 2 of the 12 incidents, the use of concealed handguns was inferred based on details about the shooting reported in news media accounts. There is no evidence that either of these 2 DGU incidents involved an assault pistol as defined under either the 1994 federal assault weapons ban or under the 2023 Illinois assault weapons ban.

¹⁹ 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 firefighter 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.

²⁰ FBI, *supra* note 15. 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).

²¹ Given the limitations of the active shooter incident data reported by the FBI, it is not possible to discern whether any of the civilian DGUs involved an armed civilian using a firearm with an LCM at the time of the intervention. As such, it is not possible to perform a similar comparison between mass shootings perpetrated with LCM-equipped firearms and mass shootings thwarted with LCM-equipped firearms.

V. OWNERSHIP RATES OF “MODERN SPORTING RIFLES” IN THE U.S.

27. As noted above in Para. 13, based on the most recent publicly-available NSSF and federal government data, modern sporting rifles—such as AR- and AK-platform firearms—appear to make up as many as 5.3% of all firearms in circulation in American society (24.4 million out of an estimated 461.9 million firearms, although this is likely an over-estimate due to the apparent inclusion of modern sporting rifles possessed by law enforcement agencies). Furthermore, in its most recent survey data (2022), the NSSF found that civilian owners of modern sporting rifles own, on average, 3.8 such rifles, with 24% of these owners possessing only one such rifle.²² Based on this data, only 6.4 million gun owners—out of an estimated 81 million Americans who own at least one personal firearm—own modern sporting rifles.²³ In other words, less than 8% of all civilian gun owners in the United States own modern sporting rifles.²⁴ In terms of the total population of the United States, estimated by the Census Bureau to be approximately 333 million people in 2022, less than 2% of all Americans own a modern sporting rifle.²⁵

²² NSSF, *Modern Sporting Rifle: Ownership, Usage and Attitudes Toward AR- and AK-Platform Modern Sporting Rifles*, Comprehensive Consumer Report, 2022, at 12, available at <https://www3.nssf.org/share/PDF/pubs/NSSF-MSR-Comprehensive-Consumer-Report.pdf> (last accessed January 16, 2023).

²³ The estimate that approximately 6.4 million gun owners possess what the NSSF considers to be modern sporting rifles is calculated by dividing the 3.8 average number of such rifles that each modern sporting rifle owner possesses into the 24.4 million such rifles estimated to be in civilian circulation. This calculation (24.4 million divided by 3.8) equals 6.4 million. Based on survey data, 81 million American adults are estimated to own guns. Andy Nguyen, “Proposed Assault Weapons Ban Won’t Turn Gun Owners into Felons Overnight,” PolitiFact, The Poynter Institute, August 3, 2022, available at <https://www.politifact.com/factchecks/2022/aug/03/instagram-posts/proposed-assault-weapons-ban-wont-turn-gun-owners-> (last accessed January 16, 2023).

²⁴ The finding that less than 8% of all gun owners possess modern sporting rifles is calculated by dividing the 6.4 million modern sporting rifle owners by the 81 million American adults estimated to be gun owners. Taking 6.4 million and dividing it by 81 million equals 7.9%.

²⁵ The Census Bureau’s total population estimate for 2022 is 333,287,557 persons. U.S. Census Bureau, “Growth in U.S. Population Shows Early Indication of Recovery Amid COVID-19 Pandemic,” December 22, 2022, available at <https://www.census.gov/newsroom/press-releases/2022/2022-population->

28. In deriving its estimates, the NSSF often relies on United States government data, particularly ATF data.²⁶ According to the ATF, from 1986 through 2020 (which reflects the most currently-available data), the civilian stock of firearms in the United States has been made up predominantly of handguns.²⁷ As Figure 14 shows, handguns account for 50% of the civilian stock of firearms, rifles account for 33%, and shotguns account for 17%.

29. According to ATF data, handguns are the most commonly owned firearms; not rifles, and most certainly not modern sporting rifles that qualify as assault weapons.²⁸

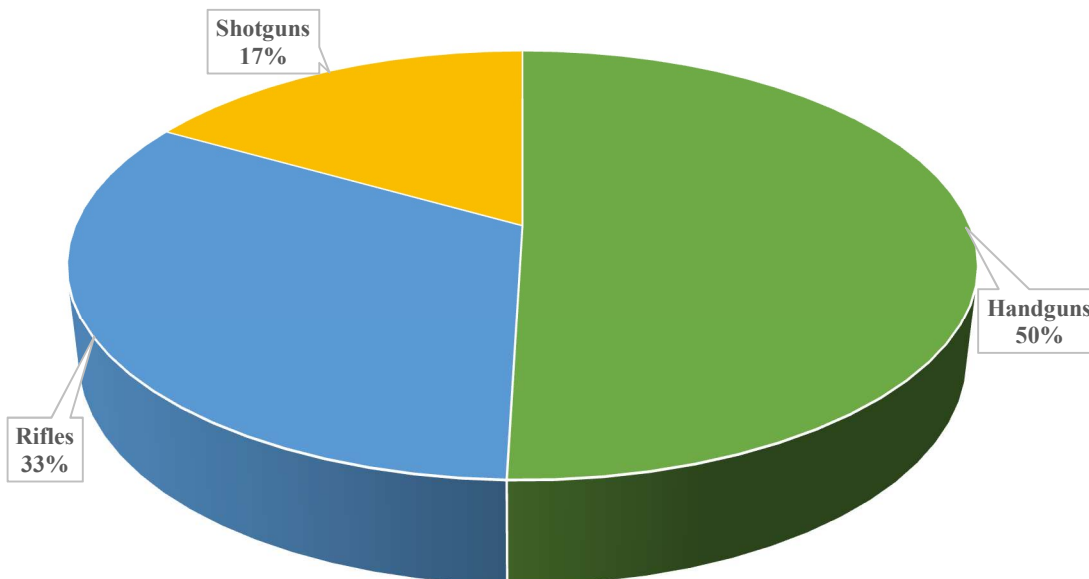
[estimates.html#:~:text=DEC.,components%20of%20change%20released%20today](#) (last accessed January 16, 2023). The finding that less than 2% of all Americans possess modern sporting rifles is calculated by dividing the 6.4 million modern sporting rifle owners by the 333 million persons in United States. Taking 6.4 million and dividing it by 333 million equals 1.9%.

²⁶ NSSF, 2020, *supra* note 8.

²⁷ For data on the number of firearms manufactured, imported, and exported, by category of firearm, from 2000-2020, *see* ATF, *supra* note 8. For similar data covering 1986-1999, *see* ATF, *Firearms Commerce in the United States: Annual Statistical Update, 2021*, available at <https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download> (last accessed January 16, 2023).

²⁸ Due to the lack of accurate data on the number of LCMs in civilian circulation, there is no way to perform a similar analysis of ownership rates using LCMs instead of modern sporting rifles. Some Plaintiffs do, however, suggest in their pleadings that, as of 2021, there might be as many as 542 million LCMs in civilian hands in the U.S. (as many as 273 million LCMs for long guns and as many as 269 million LCMs for handguns). *See*, for example, Plaintiffs' Motion for Preliminary Injunction, *Harrel v. Raoul*, Case No. 23-cv-141-SPM (S.D. Ill.), at 17-18; citing William English, "2021 National Firearms Survey: Updated Analysis Including Types of Firearms Owned," Unpublished Paper (May 13, 2022; Revised September 22, 2022), available at https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=4283305 (last accessed February 6, 2023). In 2013, the estimated number of LCMs in circulation was approximately 40 million. *See*, Patrik Jonsson, "Gun Debate 101: Time to Ban High-Capacity Magazines?" *Christian Science Monitor*, January 16, 2013, available at <https://www.csmonitor.com/USA/Politics/DC-Decoder/2013/0116/Gun-debate-101-Time-to-ban-high-capacity-magazines> (last accessed February 6, 2023). The Plaintiffs are suggesting that the number of LCMs might now be 542 million. If so, this would mark an increase of over 13 times in just 8 years, from an estimated 40 million LCMs in 2013 to an estimated 542 million LCMs in 2021. The Plaintiffs' source for this is a survey that is discussed in an unpublished, non-peer-reviewed paper. This survey also found that the state with the highest percentage of gun owners claiming to have owned an LCM (69.2%) was the District of Columbia, which arguably also has the tightest restrictions on LCM ownership in the U.S. English, 2022, at 27. However, because this survey appears to be in violation of the Code of Professional Ethics and Practices of the American Association for Public Opinion Research, including failing to identify the source of sponsorship funding and failing to

Figure 14. Share of Firearms in Civilian Circulation in the United States, 1986-2020



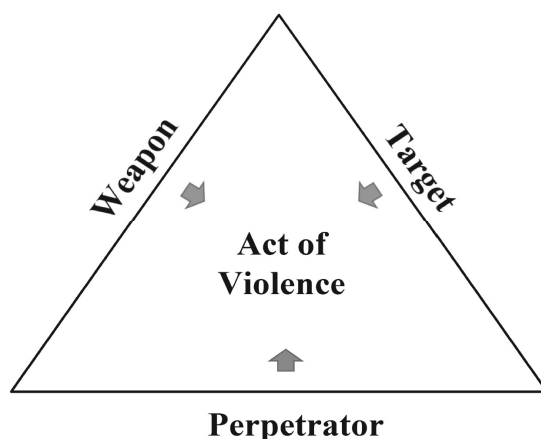
fully disclose the measurement tools (Rules III.A.2-3), there is good reason to question the integrity and findings of this survey. See, “AAPOR Code of Professional Ethics and Practices,” April 2021, available at <https://www-archive.aapor.org/Standards-Ethics/AAPOR-Code-of-Ethics.aspx> (last accessed February 6, 2023).

VI. RESTRICTIONS ON ASSAULT WEAPONS AND LCMs REDUCE THE INCIDENCE OF GUN MASSACRES, RESULTING IN LIVES SAVED

VI.A. THE OPERATIVE MECHANISM OF ASSAULT WEAPONS BANS: SUPPRESSION AND SUBSTITUTION EFFECTS

30. As conceptualized in the Trinity of Violence model that I developed in my book on mass shootings, every act of violence involves three elements: a perpetrator, a weapon, and a target (Figure 15).²⁹ The key to mitigating violence is to “break the trinity” by hindering at least one of the three elements. This is accomplished by dissuading the potential offender(s), denying the potential instrument(s) of violence, or defending the potential victim(s).³⁰

Figure 15. The Trinity of Violence



31. Bans are law-based concepts that prohibit certain behaviors by criminalizing them.³¹ Bans on assault weapons and LCMs generally make it illegal to manufacture, import, transfer, own, or possess certain firearms and certain magazines. Bans work in relation to two of

²⁹ Klarevas, *supra* note 1, at 27-29, 229-238.

³⁰ *Ibid.*

³¹ Philip J. Cook, “Research in Criminal Deterrence: Laying the Groundwork for the Second Decade,” 2 *Crime and Justice* 211 (1980) (Attached as **Exhibit M**); and Daniel S. Nagin, “Deterrence in the Twenty-First Century,” 42 *Crime and Justice* 199 (2013) (Attached as **Exhibit N**).

the three elements of the Trinity of Violence: dissuasion and denial. With regard to perpetrators, bans use the threat of criminal penalty to *deter potential offenders* from engaging in the prohibited behavior. In the case of bans on assault weapons and LCMs, they threaten conviction, imprisonment, and/or fines should an individual build or otherwise acquire a prohibited assault weapon or LCM. The primary mechanism at work here centers around dissuading potential shooters from trying to acquire banned firearm technologies. But there is also a secondary mechanism at work, focused on the assault weapon or LCM itself: *deprive potential instruments of violence*. Knowing that someone who is willing to commit murder might not be deterred from violating another criminal law, like possessing a prohibited item, bans on assault weapons and LCMs also threaten punishment against anyone who tries to transfer (through sale, gift, or loan) a restricted item to someone who is prohibited from acquiring it. This, in essence, reinforces the strategy of dissuading the offender with the strategy of denying the instruments of violence.

32. Ideally, someone intent on committing a mass shooting with an assault weapon and/or LCM would be dissuaded from going on a rampage by the fact that their means of choice are not available. In such a scenario, the attack would be quashed. This *suppression effect* is akin to what economists and psychologists refer to as a positive spillover effect, where one desirable outcome produces a second, loosely-related desirable outcome.³² A real-world example of this is the so-called “Matrix Killings,” where a 19-year-old Virginia man blamed *The Matrix* film for driving him to murder his parents with a shotgun (that did not have an LCM). At the time of the crime in 2003, the federal Assault Weapons Ban was in effect, preventing him from obtaining an assault rifle and LCMs. In a 2013 jailhouse interview, he told CNN, “If I had an assault weapon, things would have been much worse.” He added that had he had an AR-15 instead of a shotgun, he is positive that, after killing his parents, he would have gone on a

³² Paul Dolan and Mateo M. Galizzi, “Like Ripples on a Pond: Behavioral Spillovers and Their Implications for Research and Policy,” 47 *Journal of Economic Psychology* 1 (2015) (Attached as **Exhibit O**); K. Jane Muir and Jessica Keim-Malpass, “Analyzing the Concept of Spillover Effects for Expanded Inclusion in Health Economics Research,” 9 *Journal of Comparative Effectiveness Research* 755 (2020) (Attached as **Exhibit P**).

rampage and “killed as many people as I possibly could.” As he noted, “because I didn’t have an assault weapon, that didn’t happen.”³³ In this case, the unavailability of an assault weapon due to the federal ban suppressed the perpetrator’s impulse to commit a mass shooting.

33. Of course, some potential mass shooters will not be discouraged from going on a killing spree just because their means of choice are unavailable. They will instead replace their desired instruments of violence with available alternatives. This is commonly referred to as the *substitution effect*, wherein an act of violence is still perpetrated, but with a different, less lethal instrument of violence.³⁴ A real-world example of the substitution effect at work is the 2019 synagogue rampage in Poway, California. In that attack, the gunman appears to have been unable to acquire an assault rifle and LCMs due to California’s ban on both. Instead, he acquired what is known as a California-compliant semiautomatic rifle (which lacked features such as a pistol grip and a forward hand grip) and 10-round magazines. As a result, the gunman quickly ran out of bullets, and while pausing to reload—which appears to have been extremely difficult given that he did not have assault weapon features on his rifle that facilitated fast reloading—a congregant chased him away, preventing him from continuing his attack.³⁵ In this incident, which resulted in one death, California’s ban on assault weapons and LCMs worked exactly as intended. It prevented the active shooter from being able to kill enough people to surpass the fatality threshold of a mass shooting. Stated differently, if you examine data sets that identify shootings resulting in mass murder, you will not find the Poway synagogue attack on their lists.

³³ “Inside the Mind of a Killer,” CNN (Transcripts), August 23, 2013, *available at* <https://transcripts.cnn.com/show/pmt/date/2013-08-23/segment/01> (last accessed January 24, 2023).

³⁴ Philip J. Cook, “The Effect of Gun Availability on Violent Crime Patterns,” 455 *Annals of the American Academy of Political and Social Science* 63 (1981) (Attached as **Exhibit Q**); Anthony A. Braga, et al. “Firearm Instrumentality: Do Guns Make Violent Situations More Lethal?” 4 *Annual Review of Criminology* 147 (2021) (Attached as **Exhibit R**).

³⁵ Elliot Spagat and Julie Watson, “Synagogue Shooter Struggled with Gun, Fled with 50 Bullets,” Associated Press, April 30, 2019, *available at* <https://apnews.com/article/shootings-north-america-us-news-ap-top-news-ca-state-wire-8417378d6b934a8f94e1ea63fd7c0aea> (last accessed January 24, 2023).

34. It might seem perverse to think that restrictions on certain instruments of violence operate on the premise that, if an act of violence cannot be averted, then it will proceed with an alternative instrument. Nevertheless, this is exactly how bans on assault weapons and LCMs work in theory. They suppress the inclinations of potential mass shooters to go on killing rampages in the first place because their means of choice are unavailable. And, should deterrence fail, bans force perpetrators to substitute less lethal instruments for more dangerous, prohibited ones, reducing the casualty tolls of attacks when they do occur.

VI.B. THE OPERATIVE MECHANISM OF LCM BANS: FORCING PAUSES IN ACTIVE SHOOTINGS

35. Restrictions on assault weapons and LCMs also address the multiple advantages LCMs provide to active shooters. Offensively, LCMs increase kill potential. Basically, the more bullets a shooter can fire at a target within a finite amount of time, the more potential wounds they can inflict. Furthermore, the more bullets that strike a victim, the higher the odds that that person will die. These two factors—sustained-fire capability and multiple-impact capability—allow LCMs to increase a shooter’s kill potential.

36. When inserted into either a semiautomatic or fully-automatic firearm, an LCM facilitates the ability of an active shooter to fire a large number of rounds at an extremely quick rate without pause. This phenomenon—sustained-fire capability—comes in handy when a target is in a gunman’s line of sight for only a few seconds. For example, sustained-fire capability allows a reasonably competent shooter to fire three rounds per second with a semiautomatic firearm and ten rounds per second with an automatic firearm. That results in numerous chances to hit a target in a short window of opportunity, especially when ammunition capacity is large.

37. LCMs also facilitate the ability of a shooter to strike a human target with more than one round. This phenomenon—multiple-impact capability—increases the chances that the victim, when struck by multiple rounds, will die. At least two separate studies have found that, when compared to the fatality rates of gunshot wound victims who were hit by only a single

bullet, the fatality rates of those victims hit by more than one bullet were over 60 percent higher.³⁶ The implication is straightforward: being able to strike human targets with more than one bullet increases a shooter's chances of killing their victims. In essence, LCMs are force multipliers when it comes to kill potential—and the evidence from gun massacres supports this conclusion (*see* Section II).

38. In addition to offensive advantages, LCMs also provide the defensive advantage of extended cover. During an active shooting, a perpetrator is either firing their gun or not firing their gun. While pulling the trigger, it is difficult for those in harm's way to take successful defensive maneuvers. But if the shooter runs out of bullets, there is a lull in the shooting. This precious downtime affords those in the line of fire with a chance to flee, hide, or fight back.

39. There are several examples of individuals fleeing or taking cover while active shooters paused to reload. For instance, in 2012, several first-graders at Sandy Hook Elementary School in Newtown, Connecticut, escaped their attacker as he was swapping out magazines, allowing them to exit their classroom and dash to safety.³⁷ Other well-known examples include the 2007 Virginia Tech and the 2018 Borderline Bar and Grill rampages.³⁸ There is also the possibility that someone will rush an active shooter and try to tackle them (or at the very least try

³⁶Daniel W. Webster, et al., "Epidemiologic Changes in Gunshot Wounds in Washington, DC, 1983–1990," 127 *Archives of Surgery* 694 (June 1992) (Attached as **Exhibit S**); Angela Sauaia, et al., "Fatality and Severity of Firearm Injuries in a Denver Trauma Center, 2000–2013," 315 *JAMA* 2465 (June 14, 2016) (Attached as **Exhibit T**).

³⁷*See* Dave Altimari, et al., "Shooter Paused and Six Escaped," *Hartford Courant*, December 23, 2012 (Attached as **Exhibit U**).

³⁸ Virginia Tech Review Panel, Mass Shootings at Virginia Tech, April 16, 2007: Report of the Virginia Tech Review Panel Presented to Governor Kaine, Commonwealth of Virginia, Revised with Addendum, November 2009, available at <https://scholar.lib.vt.edu/prevail/docs/April16ReportRev20091204.pdf> (last accessed February 1, 2023); "California Bar Shooting: Witnesses Describe Escaping as Gunman Reloaded," CBS News, December 7, 2018, available at <https://www.cbsnews.com/news/borderline-bar-shooting-thousand-oaks-california-12-dead-witnesses-describe-gunman-storming-in> (last accessed February 1, 2023).

to wrestle their weapon away from them) while they pause to reload.³⁹ In recent history, there have been numerous instances of gunmen being physically confronted by unarmed civilians while reloading, bringing their gun attacks to an abrupt end. Prominent examples include the 1993 Long Island Rail Road, the 2011 Tucson shopping center, the 2018 Nashville Waffle House, and the 2022 Laguna Woods church shooting rampages.⁴⁰ When there are pauses in the shooting to reload, opportunities arise for those in the line of fire to take life-saving action.

VI.C. BANS ON ASSAULT WEAPONS AND LCMs IN PRACTICE

40. In light of the growing threat posed by mass shootings, legislatures have enacted restrictions on assault weapons and LCMs in an effort to reduce the occurrence and lethality of such deadly acts of firearm violence. Prominent among these measures was the 1994 Federal Assault Weapons Ban. In September 1994, moved to action by high-profile shooting rampages that occurred the previous year at a San Francisco law firm and on a Long Island Rail Road commuter train, the U.S. Congress enacted a ban on assault weapons and LCMs that applied to all 50 states plus the District of Columbia, bringing the entire country under the ban.⁴¹

³⁹The longer a shooter can fire without interruption, the longer they can keep potential defenders at bay. The longer potential defenders are kept from physically confronting a shooter, the more opportunity there is for the shooter to inflict damage.

⁴⁰ See, Rich Schapiro, “LIRR Massacre 20 Years Ago: ‘I Was Lucky,’ Says Hero Who Stopped Murderer,” *New York Daily News*, December 7, 2013, available at <http://www.nydailynews.com/new-york/nyc-crime/lirr-massacre-20-years-lucky-hero-stopped-murderer-article-1.1540846> (last accessed February 1, 2023); Sam Quinones and Nicole Santa Cruz, “Crowd Members Took Gunman Down,” *Los Angeles Times*, January 9, 2011, available at <https://www.latimes.com/archives/la-xpm-2011-jan-09-la-na-arizona-shooting-heroes-20110110-story.html> (last accessed February 1, 2023); Brad Schmitt, “Waffle House Hero: Could You Rush Toward a Gunman Who Just Killed People?” *The Tennessean*, April 24, 2018, available at <https://www.tennessean.com/story/news/crime/2018/04/24/waffle-house-hero-could-you-rush-toward-gunman-who-just-killed-people/543943002> (last accessed February 1, 2023); “Parishioners Stop Gunman in Deadly California Church Attack,” NPR, May 16, 2022, available at <https://www.npr.org/2022/05/16/1099168335/parishioners-stop-gunman-in-california-church-shooting> (last accessed February 1, 2023).

⁴¹ 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)).

41. Like the state bans on assault weapons and LCMs that were implemented before it, the federal ban was aimed primarily at reducing mass shooting violence—an objective the ban sought to achieve by prohibiting the manufacture, importation, possession, and transfer of assault weapons and LCMs not legally owned by civilians prior to the date of the law’s effect (September 13, 1994).⁴² Congress, however, inserted a sunset provision in the law which allowed the federal ban to expire in exactly 10 years, if it was not renewed beforehand. As Congress ultimately chose not to renew the law, the federal ban expired on September 13, 2004. In the aftermath of the federal ban’s expiration, mass shooting violence in the United States increased substantially.⁴³

42. In 2023, following the mass shooting that occurred at a Fourth of July parade in Highland Park, IL, the Illinois legislature enacted statewide restrictions on assault weapons and LCMs. The legislative intent of Illinois is similar to that of other legislative bodies that have restricted assault weapons and LCMs: reducing gun violence, especially the frequency and lethality of mass shootings. Because, on average, the use of assault weapons and LCMs results in higher death tolls in mass shootings, the rationale for imposing restrictions on assault weapons and LCMs is to reduce the loss of life associated with the increased kill potential of such firearm technologies.

43. Currently, 30% of the U.S. population is subject to a ban on both assault weapons and LCMs. The following is a list of the ten state-level jurisdictions that presently restrict both assault weapons and LCMs: New Jersey (September 1, 1990); Hawaii (July 1, 1992, assault pistols only); Maryland (June 1, 1994, initially assault pistols but expanded to long guns October 1, 2013); Massachusetts (July 23, 1998); California (January 1, 2000); New York (November 1, 2000); the District of Columbia (March 31, 2009); Connecticut (April 4, 2013); Delaware

⁴² Christopher Ingraham, “The Real Reason Congress Banned Assault Weapons in 1994—and Why It Worked,” *Washington Post*, February 22, 2018, *available at* <https://www.washingtonpost.com/news/wonk/wp/2018/02/22/the-real-reason-congress-banned-assault-weapons-in-1994-and-why-it-worked> (last accessed January 2, 2023).

⁴³ See sources cited *supra* note 14.

(August 29, 2022); and Illinois (January 10, 2023).⁴⁴ As a reminder, from September 13, 1994, through September 12, 2004, the entire country was also subject to federal ban on both assault weapons and LCMs.

44. In the field of epidemiology, a common method for assessing the impact of laws and policies is to measure the rate of onset of new cases of an event, comparing the rate when and where the laws and policies were in effect against the rate when and where the laws and policies were not in effect. This measure, known as the incidence rate, allows public health experts to identify discernable differences, while accounting for variations in the population, over a set period of time. Relevant to the present case, calculating incidence rates across states, in a manner that captures whether or not bans on both assault weapons and LCMs were in effect during the period of observation, allows for the assessment of the effectiveness of such bans. In addition, fatality rates—the number of deaths, per population, that result from particular events across different jurisdictions—also provide insights into the impact bans on assault weapons and LCMs have on mass shooting violence.⁴⁵

45. Since September 1, 1990, when New Jersey became the first state to ban both assault weapons and LCMs, through December 31, 2022, there have been 93 high-fatality mass shootings in the United States (**Exhibit C**).⁴⁶ Calculating incidence and fatality rates for this time-period, across jurisdictions with and without bans on both assault weapons and LCMs,

⁴⁴ The dates in parentheses mark the effective dates on which the listed states became subject to bans on both assault weapons and LCMs.

⁴⁵ For purposes of this Declaration, incidence and fatality rates are calculated using methods and principles endorsed by the Centers for Disease Control. *See* Centers for Disease Control and Prevention, *Principles of Epidemiology in Public Health Practice: An Introduction to Applied Epidemiology and Biostatistics* (2012), available at <https://stacks.cdc.gov/view/cdc/13178> (last accessed January 3, 2023).

⁴⁶ There were no state bans on both assault weapons and LCMs in effect prior to September 1, 1990. Therefore, January 1, 1991, is a logical starting point for an analysis of the impact of bans on assault weapons and LCMs. As there were no high-fatality mass shootings in the last four months of 1990, extending the analysis back to September 1, 1990, would make no difference.

reveals that states subject to such bans experienced a 56% decrease in high-fatality mass shooting incidence rates. They also experienced a 66% decrease in high-fatality mass shooting fatality rates, regardless of whether assault weapons or LCMs were used (Table 8).⁴⁷

46. When calculations go a step further and are limited to mass shootings involving assault weapons or LCMs, the difference between the two jurisdictional categories is even more pronounced. In the time-period from January 1, 1991, through December 31, 2022, accounting for population, states with bans on both assault weapons and LCMs experienced a 62% decrease in the rate of high-fatality mass shootings involving the use of assault weapons or LCMs. Similarly, jurisdictions with such bans in effect experienced a 72% decrease in the rate of deaths resulting from high-fatality mass shootings perpetrated with assault weapons or LCMs (Table 8).

47. All of the above epidemiological calculations lead to the same conclusion: when bans on assault weapons and LCMs are in effect, per capita, fewer high-fatality mass shootings occur and fewer people die in such shootings—especially incidents involving assault weapons or LCMs, where the impact is most striking.

48. The main purpose of bans on assault weapons and LCMs is to restrict the availability of assault weapons and LCMs. The rationale is that, if there are fewer assault weapons and LCMs in circulation, then potential mass shooters will either be dissuaded from attacking or they will be forced to use less-lethal firearm technologies, resulting in fewer lives lost.

49. Moreover, forcing active shooters to reload creates critical pauses in an attack. These pauses provide opportunities for people in the line of fire to take life-saving measures (such as fleeing the area, taking cover out of the shooter's sight, and fighting back), which in turn can help reduce casualties.

⁴⁷ Between September 13, 1994, and September 12, 2004, the Federal Assault Weapons Ban was in effect. During that 10-year period, all 50 states and the District of Columbia were under legal conditions that restricted assault weapons and LCMs. As such, the entire country is coded as being under a ban on both assault weapons and LCMs during the timeframe that the Federal Assault Weapons Ban was in effect.

50. The epidemiological data lend support to the policy choices of Illinois that seek to enhance public safety through restrictions on civilian access to certain firearms and magazines. While imposing constraints on assault weapons and LCMs will not prevent every mass shooting, the data suggest that legislative efforts to restrict such instruments of violence should result in lives being saved.

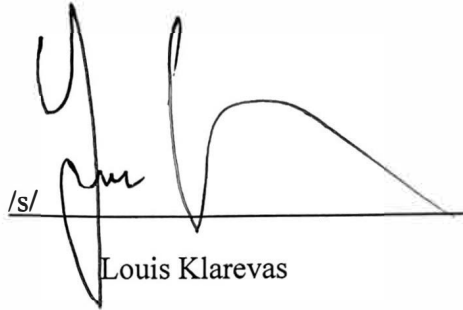
Table 8. Incidence and Fatality Rates for High-Fatality Mass Shootings, by Whether or Not Bans on Assault Weapons and LCMs Were in Effect, 1991-2022

	Annual Average Population (Millions)	Total Incidents	Annual Incidents per 100 Million Population	Total Deaths	Annual Deaths per 100 Million Population
All High-Fatality Mass Shootings					
Non-Ban States	162.0	68	1.31	720	13.89
Ban States	135.8	25	0.58	208	4.79
Percentage Decrease in Rate for Ban States			56%		66%
High-Fatality Mass Shootings Involving Assault Weapons or LCMs					
Non-Ban States	162.0	47	0.91	575	11.09
Ban States	135.8	15	0.35	135	3.11
Percentage Decrease in Rate for Ban States			62%		72%

Note: Population data are from U.S. Census Bureau, “Population and Housing Unit Estimates Datasets,” available at <https://www.census.gov/programs-surveys/popest/data/data-sets.html> (last accessed January 3, 2023).

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

Executed on February 24, 2023, at Nassau County, New York.


/s/ Louis Klarevas

Exhibit

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Education

Ph.D. International Relations, 1999
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Rampage Nation: Securing America from Mass Shootings

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Research Professor, Teachers College, Columbia University, New York, NY, 2018-Present

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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

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Consultant, National Joint Terrorism Task Force, Federal Bureau of Investigation, Washington, DC, 2015

Writer, Prometheus Books, Amherst, NY, 2012-2015

Consultant, United States Institute of Peace, Washington, DC, 2005, 2008-2009

Research Associate, United States Institute of Peace, Washington, DC, 1992-1998

Faculty Advisor, National Youth Leadership Forum, Washington, DC, 1992

Courses Taught

Graduate

Counter-Terrorism and Homeland Security
International Political Economy
International Politics in a Post-Cold War Era
International Security
Machinery and Politics of American Foreign Policy
Role of the United States in World Affairs
Security Policy
Theories of International Politics
Transnational Security
Transnational Terrorism
United States Foreign Policy

Undergraduate

American Government and Politics
European-Atlantic Relations
International Political Economy
International Relations
Transnational Terrorism
United States Foreign Policy

Scholarship

“State Firearm Laws, Gun Ownership, and K-12 School Shootings: Implications for School Safety,” *Journal of School Violence*, 2022 (co-authored with Paul M. Reeping, Sonali Rajan, et al.)

“The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990-2017,” *American Journal of Public Health*, November 2019 (co-authored with Andrew Conner and David Hemenway)

“Changes in U.S. Mass Shooting Deaths Associated with the 1994-2004 Federal Assault Weapons Ban,” *Journal of Trauma and Acute Care Surgery*, May 2019 (correspondence)

Firearms on College Campuses: Research Evidence and Policy Implications, report prepared by the Johns Hopkins University Center for Gun Policy and Research for the Association of American Universities, October 2016 (co-authored with Daniel W. Webster, John J. Donohue, et al.)

Rampage Nation: Securing America from Mass Shootings, Prometheus Books, 2016

“No Relief in Sight: Barring *Bivens* Suits in Torture Cases,” *Presidential Studies Quarterly*, June 2013

Review of James Edward Miller’s *The United States and the Making of Modern Greece: History and Power, 1950-1974*, *Presidential Studies Quarterly*, June 2012 (book review)

“Trends in Terrorism Since 9/11,” *Georgetown Journal of International Affairs*, Winter/Spring 2011

“The Death Penalty Should Be Decided Only Under a Specific Guideline,” in Christine Watkins, ed., *The Ethics of Capital Punishment* (Cengage/Gale Publishers, 2011)

Saving Lives in the ‘Convoy of Joy’: Lessons for Peace-Keeping from UNPROFOR, United States Institute of Peace Case Study, 2009

“Casualties, Polls and the Iraq War,” *International Security*, Fall 2006 (correspondence)

“The CIA Leak Case Indicting Vice President Cheney’s Chief of Staff,” *Presidential Studies Quarterly*, June 2006

“Were the Eagle and the Phoenix Birds of a Feather? The United States and the 1967 Greek Coup,” *Diplomatic History*, June 2006

“Greeks Bearing Consensus: An Outline for Increasing Greece’s Soft Power in the West,” *Mediterranean Quarterly*, Summer 2005

“W Version 2.0: Foreign Policy in the Second Bush Term,” *The Fletcher Forum of World Affairs*, Summer 2005

“Can You Sue the White House? Opening the Door for Separation of Powers Immunity in *Cheney v. District Court*,” *Presidential Studies Quarterly*, December 2004

“Political Realism: A Culprit for the 9/11 Attacks,” *Harvard International Review*, Fall 2004

Greeks Bearing Consensus: An Outline for Increasing Greece’s Soft Power in the West, Hellenic Observatory Discussion Paper 18, London School of Economics, November 2004

Were the Eagle and the Phoenix Birds of a Feather? The United States and the 1967 Greek Coup, Hellenic Observatory Discussion Paper 15, London School of Economics, February 2004

“Not a Divorce,” *Survival*, Winter 2003-2004 (correspondence)

“Media Impact,” in Mark Rozell, ed., *The Media and American Politics: An Introduction* (Lanham, MD: Rowman & Littlefield, 2003)

“The Surrender of Alleged War Criminals to International Tribunals: Examining the Constitutionality of Extradition via Congressional-Executive Agreement,” *UCLA Journal of International Law and Foreign Affairs*, Fall/Winter 2003

“The Constitutionality of Congressional-Executive Agreements: Insights from Two Recent Cases,” *Presidential Studies Quarterly*, June 2003

“The ‘Essential Domino’ of Military Operations: American Public Opinion and the Use of Force,” *International Studies Perspectives*, November 2002

“The Polls–Trends: The United States Peace Operation in Somalia,” *Public Opinion Quarterly*, Winter 2001

American Public Opinion on Peace Operations: The Cases of Somalia, Rwanda, and Haiti, University of Michigan Dissertation Services, 1999

“Turkey’s Right v. Might Dilemma in Cyprus: Reviewing the Implications of *Loizidou v. Turkey*,” *Mediterranean Quarterly*, Spring 1999

“An Outline of a Plan Toward a Comprehensive Settlement of the Greek-Turkish Dispute,” in Vangelis Calotychos, ed., *Cyprus and Its People: Nation, Identity, and Experience in an Unimaginable Community, 1955-1997*, Boulder, CO: Westview Press, 1998 (co-authored with Theodore A. Couloumbis)

“Prospects for Greek-Turkish Reconciliation in a Changing International Setting,” in Tozun Bahcheli, Theodore A. Couloumbis, and Patricia Carley, eds., *Greek-Turkish Relations and U.S. Foreign Policy: Cyprus, the Aegean, and Regional Stability*, Washington, D.C.: U.S. Institute of Peace, 1997 (co-authored with Theodore A. Couloumbis) [Reproduced as “Prospects for Greek-Turkish Reconciliation in a Changing International Setting,” in Robert L. Pfaltzgraff and Dimitris Keridis, eds., *Security in Southeastern Europe and the U.S.-Greek Relationship*, London: Brassey’s, 1997 (co-authored with Theodore A. Couloumbis)]

“Structuration Theory in International Relations,” *Swords & Ploughshares*, Spring 1992

Commentaries and Correspondence

“Why Our Response to School Shootings Is All Wrong,” *Los Angeles Times*, May 25, 2022 (co-authored with Sonali Rajan and Charles Branas)

“COVID-19 Is a Threat to National Security. Let’s Start Treating It as Such,” *Just Security*, August 6, 2020 (co-authored with Colin P. Clarke)

“If the Assault Weapons Ban ‘Didn’t Work,’ Then Why Does the Evidence Suggest It Saved Lives?” *Los Angeles Times*, March 11, 2018 (correspondence)

“London and the Mainstreaming of Vehicular Terrorism,” *The Atlantic*, June 4, 2017 (co-authored with Colin P. Clarke)

“Firearms Have Killed 82 of the 86 Victims of Post-9/11 Domestic Terrorism,” *The Trace*, June 30, 2015 [Reproduced as “Almost Every Fatal Terrorist Attack in America since 9/11 Has Involved Guns.” *Vice*, December 4, 2015]

“International Law and the 2012 Presidential Elections,” Vitoria Institute, March 24, 2012

“Al Qaeda Without Bin Laden,” CBS News *Opinion*, May 2, 2011

“Fuel, But Not the Spark,” *Zocalo Public Square*, February 16, 2011

“After Tucson, Emotions Run High,” *New York Times*, January 12, 2011 (correspondence)

“WikiLeaks, the Web, and the Need to Rethink the Espionage Act,” *The Atlantic*, November 9, 2010

“Deprogramming Jihadis,” *New York Times Magazine*, November 23, 2008 (correspondence)

“Food: An Issue of National Security,” *Forbes* (Forbes.com), October 25, 2008

“An Invaluable Opportunity for Greece To Increase Its Standing and Influence on the World Stage,” *Kathimerini* (Greece), January 13, 2005

“How Many War Deaths Can We Take?” *Newsday*, November 7, 2003

“Down But Not Out,” London School of Economics Iraq War Website, April 2003

“Four Half-Truths and a War,” *American Reporter*, April 6, 2003

“The Greek Bridge between Old and New Europe,” *National Herald*, February 15-16, 2003

“Debunking a Widely-Believed Greek Conspiracy Theory,” *National Herald*, September 21-22, 2002

“Debunking of Elaborate Media Conspiracies an Important Trend,” *Kathimerini* (Greece), September 21, 2002 [Not Related to September 21-22, 2002, *National Herald* Piece with Similar Title]

“Cold Turkey,” *Washington Times*, March 16, 1998

“If This Alliance Is to Survive . . .,” *Washington Post*, January 2, 1998 [Reproduced as “Make Greece and Turkey Behave,” *International Herald Tribune*, January 3, 1998]

“Defuse Standoff on Cyprus,” *Defense News*, January 27-February 2, 1997

“Ukraine Holds Nuclear Edge,” *Defense News*, August 2-8, 1993

Commentaries Written for *New York Daily News* –
<https://www.nydailynews.com/authors/?author=Louis+Klarevas>

“Careful How You Talk about Suicide, Mr. President,” March 25, 2020 (co-authored with Sonali Rajan, Charles Branas, and Katherine Keyes)

“Only as Strong as Our Weakest Gun Laws: The Latest Mass Shooting Makes a Powerful Case for Federal Action,” November 8, 2018

“What to Worry, and not Worry, About: The Thwarted Pipe-Bomb Attacks Point to Homeland Security Successes and Vulnerabilities,” October 25, 2018

“After the Santa Fe Massacre, Bury the ‘Good Guy with a Gun’ Myth: Armed Staffers Won’t Deter Shooters or Keep Kids Safe,” May 22, 2018

“It’s the Guns (and Ammo), Stupid: Dissuading Killers and Hardening Targets Matter Too, But Access to Weapons Matters Most,” February 18, 2018

“The Texas Shooting Again Reveals Inadequate Mental-Health Help in the U.S. Military,” November 7, 2017

“Why Mass Shootings Are Getting Worse: After Vegas, We Urgently Must Fix Our Laws,” October 2, 2017

“N.Y. Can Lead the Nation in Fighting Child Sex Trafficking,” April 21, 2009 (co-authored with Ana Burdsall-Morse)

“Crack Down on Handguns – They’re a Tool of Terror, Too,” October 25, 2007

Commentaries Written for *The Huffington Post* – www.huffingtonpost.com/louis-klarevas

“Improving the Justice System Following the Deaths of Michael Brown and Eric Garner,” December 4, 2014

“American Greengemony: How the U.S. Can Help Ukraine and the E.U. Break Free from Russia’s Energy Stranglehold,” March 6, 2014

“Guns Don’t Kill People, Dogs Kill People,” October 17, 2013

“Romney the Liberal Internationalist?” October 23, 2012

“Romney’s Unrealistic Foreign Policy Vision: National Security Funded by Money Growing Trees,” October 10, 2012

“Do the Wrong Thing: Why Penn State Failed as an Institution,” November 14, 2011

“Holding Egypt’s Military to Its Pledge of Democratic Reform,” February 11, 2011

“The Coming Twivolutions? Social Media in the Recent Uprisings in Tunisia and Egypt,” January 31, 2011

“Scholarship Slavery: Does St. John’s ‘Dean of Mean’ Represent a New Face of Human Trafficking?” October 6, 2010

“Misunderstanding Terrorism, Misrepresenting Islam,” September 21, 2010

“Bombing on the Analysis of the Times Square Bomb Plot,” May 5, 2010

“Do the Hutaree Militia Members Pose a Terrorist Threat?” May 4, 2010

“Addressing Mexico’s Gun Violence One Extradition at a Time,” March 29, 2010

“Terrorism in Texas: Why the Austin Plane Crash Is an Act of Terror,” February 19, 2010

“Securing American Primacy by Tackling Climate Change: Toward a National Strategy of Greengemony,” December 15, 2009

“Traffickers Without Borders: A ‘Journey’ into the Life of a Child Victimized by Sex Trafficking,” November 17, 2009

“Beyond a Lingering Doubt: It’s Time for a New Standard on Capital Punishment,” November 9, 2009

“It’s the Guns Stupid: Why Handguns Remain One of the Biggest Threats to Homeland Security,” November 7, 2009

“Obama Wins the 2009 Nobel Promise Prize,” October 9, 2009

Commentaries for *Foreign Policy* – www.foreignpolicy.com

“The White House’s Benghazi Problem,” September 20, 2012

“Greeks Don’t Want a Grexit,” June 14, 2012

“The Earthquake in Greece,” May 7, 2012

“The Idiot Jihadist Next Door,” December 1, 2011

“Locked Up Abroad,” October 4, 2011

Commentaries for *The New Republic* – www.tnr.com/users/louis-klarevas

“What the U.N. Can Do To Stop Getting Attacked by Terrorists,” September 2, 2011

“Is It Completely Nuts That the British Police Don’t Carry Guns? Maybe Not,” August 13, 2011

“How Obama Could Have Stayed the Execution of Humberto Leal Garcia,” July 13, 2011

“After Osama bin Laden: Will His Death Hasten Al Qaeda’s Demise?” May 2, 2011

“Libya’s Stranger Soldiers: How To Go After Qaddafi’s Mercenaries,” February 28, 2011

“Closing the Gap: How To Reform U.S. Gun Laws To Prevent Another Tucson,” January 13, 2011

“Easy Target,” June 13, 2010

“Death Be Not Proud,” October 27, 2003 (correspondence)

Legal Analyses Written for *Writ* – writ.news.findlaw.com/contributors.html#klarevas

“Human Trafficking and the Child Protection Compact Act of 2009,” *Writ* (FindLaw.com), July 15, 2009 (co-authored with Christine Buckley)

“Can the Justice Department Prosecute Reporters Who Publish Leaked Classified Information? Interpreting the Espionage Act,” *Writ* (FindLaw.com), June 9, 2006

“Will the Precedent Set by the Indictment in a Pentagon Leak Case Spell Trouble for Those Who Leaked Valerie Plame's Identity to the Press?” *Writ* (FindLaw.com), August 15, 2005

“Jailing Judith Miller: Why the Media Shouldn't Be So Quick to Defend Her, and Why a Number of These Defenses Are Troubling,” *Writ* (FindLaw.com), July 8, 2005

“The Supreme Court Dismisses the Controversial Consular Rights Case: A Blessing in Disguise for International Law Advocates?” *Writ* (FindLaw.com), June 6, 2005 (co-authored with Howard S. Schiffman)

“The Decision Dismissing the Lawsuit against Vice President Dick Cheney,” *Writ* (FindLaw.com), May 17, 2005

“The Supreme Court Considers the Rights of Foreign Citizens Arrested in the United States,” *Writ* (FindLaw.com), March 21, 2005 (co-authored with Howard S. Schiffman)

Presentations and Addresses

In addition to the presentations listed below, I have made close to one hundred media appearances, book events, and educational presentations (beyond lectures for my own classes)

“Mass Shootings: What We Know, What We Don't Know, and Why It All Matters,” keynote presentation to be delivered at the Columbia University Center for Injury Science and Prevention Annual Symposium, virtual meeting, May 2020

“K-12 School Environmental Responses to Gun Violence: Gaps in the Evidence,” paper presented at Society for Advancement of Violence and Injury Research Annual Meeting, virtual meeting, April 2020 (co-authored with Sonali Rajan, Joseph Erardi, Justin Heinze, and Charles Branas)

“Active School Shootings,” Post-Performance Talkback following Presentation of *17 Minutes*, Barrow Theater, New York, January 29, 2020 (co-delivered with Sonali Rajan)

“Addressing Mass Shootings in Public Health: Lessons from Security Studies,” Teachers College, Columbia University, November 25, 2019

“Rampage Nation: Securing America from Mass Shootings,” Swarthmore College, October 24, 2019

“Rampage Nation: Securing America from Mass Shootings,” University of Pennsylvania, February 9, 2018

“Treating Mass Shootings for What They Really Are: Threats to American Security,” Framingham State University, October 26, 2017

“Book Talk: Rampage Nation,” Teachers College, Columbia University, October 17, 2017

Participant, Roundtable on Assault Weapons and Large-Capacity Magazines, Annual Conference on Second Amendment Litigation and Jurisprudence, Law Center to Prevent Gun Violence, October 16, 2017

“Protecting the Homeland: Tracking Patterns and Trends in Domestic Terrorism,” address delivered to the annual meeting of the National Joint Terrorism Task Force, June 2015

“Sovereign Accountability: Creating a Better World by Going after Bad Political Leaders,” address delivered to the Daniel H. Inouye Asia-Pacific Center for Security Studies, November 2013

“Game Theory and Political Theater,” address delivered at the School of Drama, State Theater of Northern Greece, May 2012

“Holding Heads of State Accountable for Gross Human Rights Abuses and Acts of Aggression,” presentation delivered at the Michael and Kitty Dukakis Center for Public and Humanitarian Service, American College of Thessaloniki, May 2012

Chairperson, Cultural Enrichment Seminar, Fulbright Foundation – Southern Europe, April 2012

Participant, Roundtable on “Did the Intertubes Topple Hosni?” Zócalo Public Square, February 2011

Chairperson, Panel on Democracy and Terrorism, annual meeting of the International Security Studies Section of the International Studies Association, October 2010

“Trends in Terrorism Within the American Homeland Since 9/11,” paper to be presented at the annual meeting of the International Security Studies Section of the International Studies Association, October 2010

Panelist, “In and Of the World,” Panel on Global Affairs in the 21st Century, Center for Global Affairs, New York University, March 2010

Moderator, “Primacy, Perils, and Players: What Does the Future Hold for American Security?” Panel of Faculty Symposium on Global Challenges Facing the Obama Administration, Center for Global Affairs, New York University, March 2009

“Europe’s Broken Border: The Problem of Illegal Immigration, Smuggling and Trafficking via Greece and the Implications for Western Security,” presentation delivered at the Center for Global Affairs, New York University, February 2009

“The Dangers of Democratization: Implications for Southeast Europe,” address delivered at the University of Athens, Athens, Greece, May 2008

Participant, “U.S. National Intelligence: The Iran National Intelligence Estimate,” Council on Foreign Relations, New York, April 2008

Moderator, First Friday Lunch Series, “Intelligence in the Post-9/11 World: An Off-the-Record Conversation with Dr. Joseph Helman (U.S. Senior National Intelligence Service),” Center for Global Affairs, New York University, March 2008

Participant, “U.S. National Intelligence: Progress and Challenges,” Council on Foreign Relations, New York, March 2008

Moderator, First Friday Lunch Series, “Public Diplomacy: The Steel Backbone of America’s Soft Power: An Off-the-Record Conversation with Dr. Judith Barody (U.S. Department of State),” Center for Global Affairs, New York University, October 2007

“The Problems and Challenges of Democratization: Implications for Latin America,” presentation delivered at the Argentinean Center for the Study of Strategic and International Relations Third Conference on the International Relations of South America (IBERAM III), Buenos Aires, Argentina, September 2007

“The Importance of Higher Education to the Hellenic-American Community,” keynote address to the annual Pan-Icarian Youth Convention, New York, May 2007

Moderator, First Friday Lunch Series, Panel Spotighting Graduate Theses and Capstone Projects, Center for Global Affairs, New York University, April 2007

Convener, U.S. Department of State Foreign Officials Delegation Working Group on the Kurds and Turkey, March 2007

“Soft Power and International Law in a Globalizing Latin America,” round-table presentation delivered at the Argentinean Center for the Study of Strategic and International Relations Twelfth Conference of Students and Graduates of International Relations in the Southern Cone (CONOSUR XII), Buenos Aires, Argentina, November 2006

Moderator, First Friday Lunch Series, “From Berkeley to Baghdad to the Beltway: An Off-the-Record Conversation with Dr. Catherine Dale (U.S. Department of Defense),” Center for Global Affairs, New York University, November 2006

Chairperson, Roundtable on Presidential Privilege and Power Reconsidered in a Post-9/11 Era, American Political Science Association Annual Meeting, September 2006

“Constitutional Controversies,” round-table presentation delivered at City University of New York-College of Staten Island, September 2005

“The Future of the Cyprus Conflict,” address to be delivered at City University of New York College of Staten Island, April 2005

“The 2004 Election and the Future of American Foreign Policy,” address delivered at City University of New York College of Staten Island, December 2004

“One Culprit for the 9/11 Attacks: Political Realism,” address delivered at City University of New York-College of Staten Island, September 2004

“Were the Eagle and the Phoenix Birds of a Feather? The United States and the 1967 Greek Coup,” address delivered at London School of Economics, November 2003

“Beware of Europeans Bearing Gifts? Cypriot Accession to the EU and the Prospects for Peace,” address delivered at Conference on Mediterranean Stability, Security, and Cooperation, Austrian Defense Ministry, Vienna, Austria, October 2003

Co-Chair, Panel on Ideational and Strategic Aspects of Greek International Relations, London School of Economics Symposium on Modern Greece, London, June 2003

“Greece between Old and New Europe,” address delivered at London School of Economics, June 2003

Co-Chair, Panel on International Regimes and Genocide, International Association of Genocide Scholars Annual Meeting, Galway, Ireland, June 2003

“American Cooperation with International Tribunals,” paper presented at the International Association of Genocide Scholars Annual Meeting, Galway, Ireland, June 2003

“Is the Unipolar Moment Fading?” address delivered at London School of Economics, May 2003

“Cyprus, Turkey, and the European Union,” address delivered at London School of Economics, February 2003

“Bridging the Greek-Turkish Divide,” address delivered at Northwestern University, May 1998

“The CNN Effect: Fact or Fiction?” address delivered at Catholic University, April 1998

“The Current Political Situation in Cyprus,” address delivered at AMIDEAST, July 1997

“Making the Peace Happen in Cyprus,” presentation delivered at the U.S. Institute of Peace in July 1997

“The CNN Effect: The Impact of the Media during Diplomatic Crises and Complex Emergencies,” a series of presentations delivered in Cyprus (including at Ledra Palace), May 1997

“Are Policy-Makers Misreading the Public? American Public Opinion on the United Nations,” paper presented at the International Studies Association Annual Meeting, Toronto, Canada, March 1997 (with Shoon Murray)

“The Political and Diplomatic Consequences of Greece’s Recent National Elections,” presentation delivered at the National Foreign Affairs Training Center, Arlington, VA, September 1996

“Prospects for Greek-Turkish Reconciliation,” presentation delivered at the U.S. Institute of Peace Conference on Greek-Turkish Relations, Washington, D.C., June, 1996 (with Theodore A. 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 Preventive Medicine

American Journal of Public Health

American Political Science Review

British Medical Journal (BMJ)

Comparative Political Studies

Injury Epidemiology

Journal of Public and International Affairs

Millennium

Political Behavior

Presidential Studies Quarterly

Victims & Offenders

Violence and Victims

Brill Publishers

Johns Hopkins University Press

Routledge

Service to University, Profession, and Community

Participant, Minnesota Chiefs of Police Association, Survey of Measures to Reduce Gun Violence, 2023

Member, Regional Gun Violence Research Consortium, Nelson A. Rockefeller Institute of Government, State University of New York, 2022-

Founding Member, Scientific Union for the Reduction of Gun Violence (SURGE), Columbia University, 2019-

Contributing Lecturer, Johns Hopkins University, Massive Open Online Course on Evidence-Based Gun Violence Research, Funded by David and Lucile Packard Foundation, 2019

Member, Group of Gun Violence Experts, *New York Times* Upshot Survey, 2017

Member, Guns on Campus Assessment Group, Johns Hopkins University and Association of American Universities, 2016

Member, Fulbright Selection Committee, Fulbright Foundation, Athens, Greece, 2012

Faculty Advisor, Global Affairs Graduate Society, New York University, 2009-2011

Founder and Coordinator, Graduate Transnational Security Studies, Center for Global Affairs, New York University, 2009-2011

Organizer, Annual Faculty Symposium, Center for Global Affairs, New York University, 2009

Member, Faculty Search Committees, Center for Global Affairs, New York University, 2007-2009

Member, Graduate Program Director Search Committee, Center for Global Affairs, New York University, 2008-2009

Developer, Transnational Security Studies, Center for Global Affairs, New York University, 2007-2009

Participant, Council on Foreign Relations Special Series on National Intelligence, New York, 2008

Member, Graduate Certificate Curriculum Committee, Center for Global Affairs, New York University, 2008

Member, Faculty Affairs Committee, New York University, 2006-2008

Member, Curriculum Review Committee, Center for Global Affairs, New York University, 2006-2008

Member, Overseas Study Committee, Center for Global Affairs, New York University, 2006-2007

Participant, New York Academic Delegation to Israel, Sponsored by American-Israel Friendship League, 2006

Member, Science, Letters, and Society Curriculum Committee, City University of New York-College of Staten Island, 2006

Member, Graduate Studies Committee, City University of New York-College of Staten Island, 2005-2006

Member, Summer Research Grant Selection Committee, City University of New York-College of Staten Island, 2005

Director, College of Staten Island Association, 2004-2005

Member of Investment Committee, College of Staten Island Association, 2004-2005

Member of Insurance Committee, College of Staten Island Association, 2004-2005

Member, International Studies Advisory Committee, City University of New York-College of Staten Island, 2004-2006

Faculty Advisor, Pi Sigma Alpha National Political Science Honor Society, City University of New York-College of Staten Island, 2004-2006

Participant, World on Wednesday Seminar Series, City University of New York-College of Staten Island, 2004-2005

Participant, American Democracy Project, City University of New York-College of Staten Island, 2004

Participant, Philosophy Forum, City University of New York-College of Staten Island, 2004

Commencement Liaison, City University of New York-College of Staten Island, 2004

Member of Scholarship Committee, Foundation of Pan-Icarian Brotherhood, 2003-2005, 2009

Scholarship Chairman, Foundation of Pan-Icarian Brotherhood, 2001-2003

Faculty Advisor to the Kosmos Hellenic Society, George Washington University, 2001-2002

Member of University of Pennsylvania's Alumni Application Screening Committee, 2000-2002

Participant in U.S. Department of State's International Speakers Program, 1997

Participant in Yale University's United Nations Project, 1996-1997

Member of Editorial Advisory Board, *Journal of Public and International Affairs*, Woodrow Wilson School of Public and International Affairs, Princeton University, 1991-1993

Voting Graduate Student Member, School of International Service Rank and Tenure Committee, American University, 1990-1992

Member of School of International Service Graduate Student Council, American University, 1990-1992

Teaching Assistant for the Several Courses (World Politics, Beyond Sovereignty, Between Peace and War, Soviet-American Security Relations, and Organizational Theory) at School of International Service Graduate Student Council, American University, 1989-1992

Representative for American University at the Annual Meeting of the Association of Professional Schools of International Affairs, Denver, Colorado, 1991

Expert Witness Service

Expert for State of Hawaii, *National Association for Gun Rights, et al. v. Shikada*, United States District Court for the District of Hawaii, Case Number 22-cv-00404-DKW-RT, Honolulu, HI, 2023-

Expert for State of Hawaii, *Abbott v. Lopez*, United States District Court for the District of Hawaii, Case Number 20-cv-00360-RT, Honolulu, HI, 2023-

Expert for State of Illinois, *Harrel v. Raoul*, United States District Court for Southern District of Illinois, Case Number 23-cv-141-SPM, East St. Louis, IL, 2023-

Expert for State of Illinois, *Langley v. Kelly*, United States District Court for Southern District of Illinois, Case Number 23-cv-192-NJR, East St. Louis, IL, 2023-

Expert for State of Illinois, *Barnett v. Raoul*, United States District Court for Southern District of Illinois, Case Number 23-cv-209-RJD, Benton, IL, 2023-

Expert for State of Illinois, *Federal Firearms Licensees of Illinois v. Pritzker*, United States District Court for Southern District of Illinois, Case Number 23-cv-215-NJR, East St. Louis, IL, 2023-

Expert for State of Illinois, *Herrera v. Raoul*, United States District Court for Northern District of Illinois, Case Number 23-cv-532, Chicago, IL, 2023-

Expert for State of Oregon, *Oregon Firearms Federation, Inc., et al. v. Kotek, et al.*, United States District Court for the District of Oregon, Case Number 22-cv-01815-IM, Portland, OR, 2023-

Expert for State of Oregon, *Fitz, et al. v. Rosenblum, et al.*, United States District Court for the District of Oregon, Case Number 22-cv-01859-IM, Portland, OR, 2023-

Expert for State of Oregon, *Eyre, et al. v. Rosenblum, et al.*, United States District Court for the District of Oregon, Case Number 22-cv-01862-IM, Portland, OR, 2023-

Expert for State of Oregon, *Azzopardi, et al. v. Rosenblum, et al.*, United States District Court for the District of Oregon, Case Number 22-cv-01869-IM, Portland, OR, 2023-

Expert for State of Connecticut, *National Association for Gun Rights, et al. v. Lamont, et al.*, United States District Court for the District of Connecticut, Case Number 22-cv-01118-JBA, Hartford, CT, 2023-

Expert for State of Massachusetts, *National Association for Gun Rights and Capen v. Campbell*, United States District Court for the District of Massachusetts, Case Number 22-cv-11431-FDS, Boston, MA, 2023-

Expert for City of Highland Park, Illinois, *National Association for Gun Rights and Goldman v. Highland Park*, United States District Court for Northern District of Illinois, Case Number 22-cv-04774, Chicago, IL, 2022-

Expert for State of Colorado, *Gates, et al. v. Polis*, United States District Court for District of Colorado, 22-cv-01866-NYW-SKC, Denver, CO, 2022-

Expert for State of Washington, *Brumback and Gimme Guns v. Ferguson, et al.*, United States District Court for Eastern District of Washington, Case Number 22-cv-03093-MKD, Yakima, WA, 2022-

Expert for State of Washington, *Sullivan, et al. v. Ferguson, et al.*, United States District Court for Western District of Washington, Case Number, 22-cv-05403-DGE, Seattle, WA, 2022-

Expert for State of California, *Rupp v. Bonta*, United States District Court for Eastern District of California, Case Number 17-cv-00903-WBS-KJN, Sacramento, CA, 2022-

Expert for County of Cook, Illinois, *Viramontes v. County of Cook, IL*, United States District Court for Northern District of Illinois, Case Number 21-cv-04595, Chicago, IL, 2022-

Expert for Government of Canada, *Parker and K.K.S. Tactical Supplies Ltd. v. Attorney General of Canada*, Federal Court, Court File No.: T-569-20, 2021-

Expert for Government of Canada, *Canadian Coalition for Firearm Rights, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-577-20, 2021-

Expert for Government of Canada, *Hipwell v. Attorney General of Canada*, Federal Court, Court File No.: T-581-20, 2021-

Expert for Government of Canada, *Doherty, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-677-20, 2021-

Expert for Government of Canada, *Generoux, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-735-20, 2021-

Expert for Government of Canada, *Eichenberg, et al. v. Attorney General of Canada*, Federal Court, Court File No.: T-905-20, 2021-

Expert for State of California, *Nguyen v. Bonta*, United States District Court for Southern District of California, Case Number 20-cv-02470-WQH-MDD, San Diego, CA, 2021-

Expert for State of California, *Jones v. Bonta*, United States District Court for Southern District of California, Case Number 19-cv-01226-L-AHG, San Diego, CA, 2021-

Expert for State of California, *Miller v. Becerra*, United States District Court for Southern District of California, Case Number 19-cv-1537-BEN-JLB, San Diego, CA, 2019-

Expert for Plaintiffs, *Ward et al. v. Academy Sports + Outdoor*, District Court Bexar County, Texas, 224th Judicial District, Cause Number 2017CI23341, Bexar County, TX, 2019-2019

Expert for State of California, *Duncan v. Becerra*, United States District Court for Southern District of California, Case Number 17-cv-1017-BEN-JLB, San Diego, CA, 2017-

Expert for State of California, *Wiese v. Becerra*, United States District Court for Eastern District of California, Case Number 17-cv-00903-WBS-KJN, Sacramento, CA, 2017-

Expert for State of Colorado, *Rocky Mountain Gun Owners v. Hickenlooper*, District Court for County and City of Denver, Colorado, Case Number 2013CV33879, Denver, CO, 2016-2017

Affiliations, Associations, and Organizations (Past and Present)

Academy of Political Science (APS)

American Political Science Association (APSA)

Anderson Society of American University

Carnegie Council Global Ethics Network

Columbia University Scientific Union for the Reduction of Gun Violence (SURGE)

Firearm Safety among Children and Teens (FACTS)

International Political Science Association (IPSA)

International Studies Association (ISA)

New York Screenwriters Collective

Pan-Icarian Brotherhood

Pi Sigma Alpha

Regional Gun Violence Research Consortium

Society for Advancement of Violence and Injury Research (SAVIR)

United States Department of State Alumni Network

United States Institute of Peace Alumni Association

University of Pennsylvania Alumni Association

Grants, Honors, and Awards

Co-Investigator, A Nationwide Case-Control Study of Firearm Violence Prevention Tactics and Policies in K-12 School, National Institutes of Health, 2021-2024 (Branas and Rajan MPIs)

Senior Fulbright Fellowship, 2012

Professional Staff Congress Research Grantee, City University of New York, 2004-2005

Research Assistance Award (Two Times), City University of New York-College of Staten Island, 2004

Summer Research Fellowship, City University of New York-College of Staten Island, 2004

European Institute Associate Fellowship, London School of Economics, 2003-2004

Hellenic Observatory Defense Analysis Research Fellowship, London School of Economics, 2002-2003

United States Institute of Peace Certificate of Meritorious Service, 1996

National Science Foundation Dissertation Research Grant, 1995 (declined)

Alexander George Award for Best Graduate Student Paper, Runner-Up, Foreign Policy Analysis Section, International Studies Association, 1994

Dean's Scholar Fellowship, School of International Service, American University, 1989-1992

Graduate Research and Teaching Assistantship, School of International Service, American University, 1989-1992

American Hellenic Educational Progressive Association (AHEPA) College Scholarship, 1986

Political Science Student of the Year, Wilkes-Barre Area School District, 1986

Exhibit

LOUIS KLAREVAS
RAMPAGE NATION
SECURING AMERICA FROM MASS SHOOTINGS

 **Prometheus Books**

59 John Glenn Drive
Amherst, New York 14228

Table 2.1. The Concept of a Mass Shooting.

Definition of a Mass Shooting:

Any violent attack that results in four or more individuals incurring gunshot wounds.

Categories of Mass Shooting:

1. *Nonfatal*
Mass shootings in which no one dies.
2. *Fatal*
Mass shootings in which at least one victim dies.
3. *High-Fatality / Gun Massacre*
Mass shootings in which six or more victims die.



It's easy to dismiss conceptual discussions and debates as exercises in Ivory Tower intellectualism. But how we identify and think about mass shootings impacts which attacks capture national attention and which are disregarded—something which has far-reaching policy consequences. Thus, coming up with the best possible definition and conceptualization is a vital first step toward explaining and preventing rampage violence. As the Socratic adage reminds us, “The beginning of wisdom is the definition of terms.”⁴³

Exhibit

Exhibit C
High-Fatality Mass Shootings in the United States, 1991-2022

	Date	City	State	Deaths	Involved AWs (1994 U.S. Definition)	Involved LCMs (1994 U.S. Definition)	Involved LCMs (2023 Ill. Definition)
1	1/26/1991	Chimayo	NM	7	N	N	N
2	8/9/1991	Waddell	AZ	9	N	N	N
3	10/16/1991	Killeen	TX	23	N	Y	Y
4	11/7/1992	Morro Bay and Paso Robles	CA	6	N	N	N
5	1/8/1993	Palatine	IL	7	N	N	N
6	5/16/1993	Fresno	CA	7	Y	Y	Y
7	7/1/1993	San Francisco	CA	8	Y	Y	Y
8	12/7/1993	Garden City	NY	6	N	Y	N
9	4/20/1999	Littleton	CO	13	Y	Y	Y
10	7/12/1999	Atlanta	GA	6	N	U	U
11	7/29/1999	Atlanta	GA	9	N	Y	Y
12	9/15/1999	Fort Worth	TX	7	N	Y	N
13	11/2/1999	Honolulu	HI	7	N	Y	Y
14	12/26/2000	Wakefield	MA	7	Y	Y	Y
15	12/28/2000	Philadelphia	PA	7	N	Y	N
16	8/26/2002	Rutledge	AL	6	N	N	N
17	1/15/2003	Edinburg	TX	6	Y	U	U
18	7/8/2003	Meridian	MS	6	N	N	N
19	8/27/2003	Chicago	IL	6	N	N	N
20	3/12/2004	Fresno	CA	9	N	N	N
21	11/21/2004	Birchwood	WI	6	Y	Y	Y
22	3/12/2005	Brookfield	WI	7	N	Y	N
23	3/21/2005	Red Lake	MN	9	N	Y	N
24	1/30/2006	Goleta	CA	7	N	Y	N
25	3/25/2006	Seattle	WA	6	N	N	N
26	6/1/2006	Indianapolis	IN	7	Y	Y	Y
27	12/16/2006	Kansas City	KS	6	N	N	N
28	4/16/2007	Blacksburg	VA	32	N	Y	N
29	10/7/2007	Crandon	WI	6	Y	Y	Y
30	12/5/2007	Omaha	NE	8	Y	Y	Y
31	12/24/2007	Carnation	WA	6	N	U	U
32	2/7/2008	Kirkwood	MO	6	N	Y	N
33	9/2/2008	Alger	WA	6	N	U	U
34	12/24/2008	Covina	CA	8	N	Y	Y
35	1/27/2009	Los Angeles	CA	6	N	N	N

	Date	City	State	Deaths	Involved AWs (1994 U.S. Definition)	Involved LCMs (1994 U.S. Definition)	Involved LCMs (2023 Ill. Definition)
36	3/10/2009	Kinston, Samson, and Geneva	AL	10	Y	Y	Y
37	3/29/2009	Carthage	NC	8	N	N	N
38	4/3/2009	Binghamton	NY	13	N	Y	Y
39	11/5/2009	Fort Hood	TX	13	N	Y	Y
40	1/19/2010	Appomattox	VA	8	Y	Y	Y
41	8/3/2010	Manchester	CT	8	N	Y	Y
42	1/8/2011	Tucson	AZ	6	N	Y	Y
43	7/7/2011	Grand Rapids	MI	7	N	Y	N
44	8/7/2011	Copley Township	OH	7	N	N	N
45	10/12/2011	Seal Beach	CA	8	N	N	N
46	12/25/2011	Grapevine	TX	6	N	N	N
47	4/2/2012	Oakland	CA	7	N	N	N
48	7/20/2012	Aurora	CO	12	Y	Y	Y
49	8/5/2012	Oak Creek	WI	6	N	Y	Y
50	9/27/2012	Minneapolis	MN	6	N	Y	N
51	12/14/2012	Newtown	CT	27	Y	Y	Y
52	7/26/2013	Hialeah	FL	6	N	Y	Y
53	9/16/2013	Washington	DC	12	N	N	N
54	7/9/2014	Spring	TX	6	N	Y	N
55	9/18/2014	Bell	FL	7	N	U	U
56	2/26/2015	Tyrone	MO	7	N	U	U
57	5/17/2015	Waco	TX	9	N	Y	Y
58	6/17/2015	Charleston	SC	9	N	Y	N
59	8/8/2015	Houston	TX	8	N	U	U
60	10/1/2015	Roseburg	OR	9	N	Y	N
61	12/2/2015	San Bernardino	CA	14	Y	Y	Y
62	2/21/2016	Kalamazoo	MI	6	N	Y	N
63	4/22/2016	Piketon	OH	8	N	U	U
64	6/12/2016	Orlando	FL	49	Y	Y	Y
65	5/27/2017	Brookhaven	MS	8	Y	Y	Y
66	9/10/2017	Plano	TX	8	Y	Y	Y
67	10/1/2017	Las Vegas	NV	60	Y	Y	Y
68	11/5/2017	Sutherland Springs	TX	25	Y	Y	Y
69	2/14/2018	Parkland	FL	17	Y	Y	Y
70	5/18/2018	Santa Fe	TX	10	N	N	N
71	10/27/2018	Pittsburgh	PA	11	Y	Y	Y
72	11/7/2018	Thousand Oaks	CA	12	N	Y	Y
73	5/31/2019	Virginia Beach	VA	12	N	Y	N

	Date	City	State	Deaths	Involved AWs (1994 U.S. Definition)	Involved LCMs (1994 U.S. Definition)	Involved LCMs (2023 Ill. Definition)
74	8/3/2019	El Paso	TX	23	Y	Y	Y
75	8/4/2019	Dayton	OH	9	Y	Y	Y
76	8/31/2019	Midland and Odessa	TX	7	Y	Y	Y
77	3/15/2020	Moncure	NC	6	U	U	U
78	6/4/2020	Valhermoso Springs	AL	7	Y	Y	Y
79	9/7/2020	Aguanga	CA	7	U	U	U
80	2/2/2021	Muskogee	OK	6	N	U	U
81	3/16/2021	Acworth and Atlanta	GA	8	N	Y	Y
82	3/22/2021	Boulder	CO	10	Y	Y	Y
83	4/7/2021	Rock Hill	SC	6	Y	Y	Y
84	4/15/2021	Indianapolis	IN	8	Y	Y	Y
85	5/9/2021	Colorado Springs	CO	6	N	Y	N
86	5/26/2021	San Jose	CA	9	N	Y	N
87	1/23/2022	Milwaukee	WI	6	N	U	U
88	4/3/2022	Sacramento	CA	6	N	Y	Y
89	5/14/2022	Buffalo	NY	10	Y	Y	Y
90	5/24/2022	Uvalde	TX	21	Y	Y	Y
91	7/4/2022	Highland Park	IL	7	Y	Y	Y
92	10/27/2022	Broken Arrow	OK	7	N	U	U
93	11/22/2022	Chesapeake	VA	6	N	U	U

Note: High-fatality mass shootings are mass shootings resulting in 6 or more fatalities, not including the perpetrator(s), regardless of location or motive. For purposes of this Exhibit, a high-fatality mass shooting was coded as involving an assault weapon if at least one of the firearms discharged was defined as an assault weapon in (1) the 1994 federal Assault Weapons Ban or (2) the statutes of the state where the shooting occurred. For purposes of this Exhibit, a high-fatality mass shooting was coded as involving a large-capacity magazine in two different ways. Under the 1994 federal definition, an ammunition-feeding device was coded as an LCM if at least one of the firearms discharged had an ammunition-feeding device with a capacity of more than 10 bullets. Under the 2023 Illinois definition, an ammunition-feeding device was coded as an LCM if at least one of the long guns discharged had an ammunition-feeding device with a capacity of more than 10 bullets or if at least on the handguns discharged had an ammunition-feeding device with a capacity of more than 15 bullets. Incidents in gray shade are those incidents that occurred at a time when and in a state where legal prohibitions on both assault weapons and large-capacity magazines were in effect statewide or nationwide.

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.

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

NATIONAL ASSOCIATION FOR GUN RIGHTS; ROBERT C. BEVIS; and
LAW WEAPONS, INC d/b/a LAW WEAPONS & SUPPLY, an Illinois corpo-
ration,

Plaintiffs-Appellants,

v.

CITY OF NAPERVILLE, ILLINOIS and JASON ARRES,

Defendants-Appellees,

and

THE STATE OF ILLINOIS,

Intervening-Appellee

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DIS-
TRICT OF ILLINOIS, EASTERN DIVISION, No. 1:22-cv-04775
THE HONORABLE VIRGINIA M. KENDALL, JUDGE PRESIDING

MOTION FOR INJUNCTION PENDING REVIEW

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ARRINGTON LAW FIRM
4195 WADSWORTH BOULEVARD
WHEAT RIDGE, COLORADO 80033
(303) 205-7870

Attorney for Plaintiffs-Appellants

CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

The undersigned counsel for Plaintiffs-Appellants furnishes the following information in compliance with Circuit Rule 26.1.

(1) The full name of every party that the attorney represents in the case:

National Association for Gun Rights

Robert C. Bevis

Law Weapons, Inc. d/b/a Law Weapons & Supply

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:

Arrington Law Firm

Law Offices of Jason R. Craddock

(3) If the party or amicus is a corporation:

(i) Identify all of its parent corporations, if any:

None. Neither corporate party has a parent corporation.

(ii) List any publicly held company that owns 10% or more of the party's or amicus' stock:

None.

/s/ Barry K. Arrington
Counsel for Plaintiffs-Appellants

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MOTION AND STANDARD OF REVIEW

Plaintiffs respectfully move the Court to enter an injunction pending the disposition of Plaintiffs' petition for rehearing en banc in this Court and the filing and disposition of any follow-on petition for writ of certiorari.

A party seeking an injunction pending appellate review must establish that he is [1] likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest. *Protect Our Parks, Inc. v. Buttigieg*, 10 F.4th 758, 763 (7th Cir. 2021), quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (quotation marks omitted; bracketed numbers added). Although a plaintiff need not show by a preponderance of the evidence that she will win her suit, the mere possibility of success is not enough; she must make a “strong” showing on the merits. *Id.* (internal citation omitted). This is an extraordinary remedy. *Id.*

FACTUAL AND PROCEDURAL BACKGROUND

The Protect Illinois Communities Act, Pub. Act 102-1116 (2023) (“the Act”), became effective on January 10, 2023.¹ This action concerns the arms bans in the Act that are codified at 720 ILCS 5/24-1.9 and 5/24-1.10. Those sections generally prohibit the purchase and sale of “assault weapons” and “large capacity ammunition feeding devices” (defined as magazines accepting more

¹ On August 17, 2022, the City Council of Naperville, Illinois enacted Chapter 19 of Title 3 of the Naperville Municipal Code (the “Ordinance”). The Ordinance bans the sale of so-called “assault rifles.” The prohibitions of the Ordinance largely overlap with those of the Act. Therefore, like the panel, Plaintiffs will focus on the Act.

than 10 rounds of ammunition for a long gun or more than 15 rounds of ammunition for handguns). Effective January 1, 2024, the Act will also prohibit the mere possession of assault weapons and magazines except for those possessed prior to the Act. *Id.* §§ 1.9(c)-(d) & 1.10(c)-(d). The Act provides for substantial criminal penalties for violation of its provisions. 720 ILCS 5/24-1(b) and 1.10(g).

Plaintiff Robert C. Bevis is a law-abiding citizen and business owner. ECF No. 50-2 ¶ 2. Plaintiff Law Weapons, Inc. (“LWI”) is engaged in the commercial sale of firearms. Plaintiff National Association for Gun Rights (“NAGR”) is a Second Amendment advocacy organization. Plaintiffs and/or their members and/or customers desire to exercise their Second Amendment right to acquire, possess, carry, sell, purchase, and transfer the banned arms for lawful purposes including, but not limited to, the defense of their homes. ECF No. 51 ¶ 3; ECF No. 50-2 ¶ 4. The challenged laws prohibit or soon will prohibit Plaintiffs from exercising their Second Amendment rights in this fashion. *Id.* LWI asserts the claims in this action on its own behalf and on behalf of its customers who are prohibited by the challenged laws from acquiring arms protected by the Second Amendment. *Id.* NAGR asserts its claims on behalf of its members who reside in the State. *Id.*

Plaintiffs brought this action challenging the Ordinance and the Act under the Second Amendment. ECF No. 48, pp 6-7. Plaintiffs filed a motion for preliminary injunction with respect to the Ordinance on November 18, 2022.

ECF No. 10. Plaintiffs filed a motion for preliminary injunction with respect to the Act on January 24, 2023. ECF No. 50. The district court denied Plaintiffs' motions for preliminary injunction in an order dated February 17, 2023. ECF No. 63. Plaintiffs appealed the district court's order to this Court on February 21, 2023. ECF No. 64. The panel affirmed the district court's denial of Plaintiffs' motion for preliminary injunction in an opinion dated November 3, 2023. Slip op. 47.

ARGUMENT

I. Introduction

The so-called “assault weapons” and “large capacity magazines”² banned by the Act are possessed by millions of law-abiding Americans who, overwhelmingly, use them for lawful purposes, including self-defense in the home. Indeed, the Act bans the most popular rifle in America.³ The Act thus bans weapons in common use for lawful purposes and is therefore manifestly unconstitutional pursuant to Supreme Court precedent, particularly *D.C. v. Heller*, 554 U.S. 570 (2008) and *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022). The Act’s handgun ban⁴ is particularly unconstitutional under *Heller*.

² Both “assault weapon” and “large capacity magazine” are terms of political derision, not accurate firearm terminology.

³ Slip op. 68, n. 9 (Brennan, J., dissenting) (AR-15 banned by the Act is the most popular rifle in America. (quoting David B. Kopel, *The History of Firearm Magazines and Magazine Prohibitions*, 78 ALB. L. REV. 849, 859 (2015)).

⁴ Most of the “assault weapons” banned by Act are long guns. While the principles announced in *Heller* apply to long guns, the panel’s disregard of *Heller*’s specific holding regarding handguns is particularly problematic.

In the meantime, Plaintiffs and hundreds of thousands of other law-abiding citizens of Illinois are suffering irreparable harm due to being deprived of their Second Amendment rights. For the reasons set forth below, this Court should enter an injunction pending further appellate review.

II. Plaintiffs Should Prevail on the Merits

A. The *Heller/Bruen* Framework for Second Amendment Analysis

In *Heller*, the Supreme Court held (a) the Second Amendment protects an individual right to keep and bear arms that is not tied to militia membership; and (b) an absolute prohibition of a weapon in common use for lawful purposes is a per se violation of that right. 554 U.S. at 592, 628. In *McDonald v. City of Chicago, Ill.*, 561 U.S. 742 (2010), the Court held that the right to keep and bear arms is among the fundamental rights necessary to our system of ordered liberty, and therefore the Second Amendment is applicable to the States through the Fourteenth Amendment. *Id.*, 561 U.S. at 778 (*reversing* *NRA v. Chicago*, 567 F.3d 856 (7th Cir. 2009) (Easterbrook, J.)).

Building on the text, history, and tradition framework for analysis of Second Amendment challenges first announced in *Heller*, in *Bruen*, the Court articulated the following general framework for resolving such challenges: “We reiterate that the standard for applying the Second Amendment is as follows: [1] When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. [2] The government must then justify its regulation by demonstrating that it is consistent with the

Nation’s historical tradition of firearm regulation.” *Id.*, 142 S. Ct. at 2129-30. These steps have come to be known as the “plain text” step and the “history and tradition” step.

B. *Bruen* Step 1: The Plain Text Covers Plaintiffs’ Conduct

The “textual analysis focuse[s] on the normal and ordinary meaning of the Second Amendment’s language.” *Bruen*, 142 S. Ct. at 2127 (*citing Heller*, 554 U.S. at 576–577, 578) (internal quotation marks omitted). Plaintiffs desire to acquire and possess the banned “assault weapons” and magazines. Thus, the first issue is whether the plain text of the Second Amendment covers this conduct. The plain text provides: “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 infringed.” U.S. Const. amend. II. In *Heller*, the Court held that a handgun is an “arm” within the meaning of the Second Amendment. 554 U.S. at 581, 628–29. In reaching that conclusion, the Court noted that, as a general matter, the “18th-century meaning” of the term “arms” is “no different from the meaning today.” *Id.* at 581. Then, as now, the Court explained, the term generally referred to “weapons of offence, or armour of defence.” *Id.* (cleaned up). The Court further noted that all relevant sources of the original public meaning of “arms” agreed that “all firearms constituted ‘arms’” within the then-understood meaning of that term. *Id.* And, just as the scope of protection afforded by other constitutional rights extends to modern variants, so too the Second Amendment “extends, prima facie, to all instruments that constitute bearable

arms, even those that were not in existence at the time of the founding.” *Id.* at 582. Thus, the banned firearms are obviously “arms” covered by the plain text and thus *prima facie* protected. (Whether they are actually protected is a matter resolved at the second step.)

In addition to the obvious case of firearms, the general definition of “arms” in the Second Amendment, “covers modern instruments that facilitate armed self-defense.” *Bruen*, 142 S. Ct. at 2132. The magazines banned by the State fit neatly within this definition because they are essential to the operation of modern semi-automatic firearms. *See Ass’n of New Jersey Rifle & Pistol Clubs, Inc. v. Att’y Gen. New Jersey*, 910 F.3d 106, 116 (3d Cir. 2018), *abrogated on other grounds by Bruen*.

In summary, the Plaintiffs’ conduct in seeking to acquire and possess the banned “assault weapons” and magazines is covered by the plain text of the Second Amendment. Their conduct is, therefore, presumptively protected by the Constitution.

C. *Bruen* Step 2: Because the Banned Arms are in Common Use, the State Cannot Meet its Burden

The State retained Dr. Louis Klarevas as an expert in this matter. Dr. Klarevas estimated that there are approximately 24.4 million “assault weapons” in circulation in American society.⁵ Dr. Klarevas also stated that in 2022

⁵ *Barnett v. Raoul*, 3:23-cv-209 (S.D. Ill.), ECF 37-4, p. 12. Dr. Klarevas uses the term “modern sporting rifle” (NSSF’s term for AR-15 and AK-47 platform rifles) as a proxy for “assault weapons.” For reasons that are unclear, he suggests that those rifles owned by law enforcement officers do not count as in circulation. Even granting this dubious premise, it is undisputed that tens of millions of the weapons are in circulation.

in the United States, 63 people were killed in seven mass shootings.⁶ Thus, according to Defendants' own expert, at least 23,999,937 of the 24.4 million "assault weapons" in circulation were not used in mass shootings last year. Defendants insist that the 99.9999% of such weapons that were not used in mass shootings last year may be banned because of the .0001% that were. Defendants are wrong.

The panel used the AR-15 semi-automatic rifle as the paradigmatic example of the kind of weapon banned by the Act. Slip op. 6. The State's own expert acknowledged that Americans own tens of millions of AR-15 and similar rifles, and the overwhelming majority of those weapons are used for lawful purposes. Under the Supreme Court's precedents, particularly *Heller*, "*that is all that is needed* for citizens to have a right under the Second Amendment to keep such weapons." *Friedman v. City of Highland Park, Ill.*, 577 U.S. 1039 (2015) (Thomas, J., joined by Scalia, J., dissenting from denial of certiorari) (emphasis added). The same is true for the so-called "large capacity magazines" banned by the Act. *Duncan v. Bonta*, 83 F.4th 803, 816 (9th Cir. 2023) (Bumatay, J., dissenting from order granting stay) (*quoting* Justice Thomas's dissent in *Friedman*).

Indeed, this is *Heller's* central holding. The Court performed an exhaustive search of the historical record and concluded that no Founding-era

⁵ Plaintiffs point to Judge Bumatay's dissenting opinion because his reasoning is consistent with *Heller* and *Bruen*, as opposed to the majority opinion which, inexplicably, engaged in practically no analysis at all.

⁶ *Barnett v. Raoul*, 3:23-cv-209 (S.D. Ill.), ECF 37-4, p. 66.

regulation “remotely burden[ed] the right of self-defense as much as an absolute ban” on a weapon in common use. *Id.*, 554 U.S. at 632. Thus, laws that ban weapons in common use for lawful purposes are categorically unconstitutional. *Id.*, at 628. This necessarily means that the State cannot carry its burden under *Bruen’s* step two (the history and tradition step). After an exhaustive search, *Heller* concluded that it is impossible to demonstrate that a ban of a weapon in common use is consistent with the Nation’s history and tradition of firearms regulation. It follows that the State’s ban on weapons in common use for lawful purposes, like the ban at issue in *Heller*, is categorically unconstitutional.

D. Summary: The Act is Unconstitutional

Plaintiffs have demonstrated that their conduct in seeking to keep and bear the banned arms is covered by the plain text of the Second Amendment and, therefore, the Act is presumptively unconstitutional. The State failed to rebut that presumption. Indeed, under *Heller*, it is impossible for the State to demonstrate that its ban of arms in common use for lawful purposes is consistent with this Nation’s history and tradition of firearms regulation. Accordingly, Plaintiffs should prevail on the merits.

III. The Panel Made Several Errors

A. The State’s Handgun Ban is Clearly Unconstitutional

The D.C. ordinance challenged in *Heller* banned the possession of handguns in the city even for self-defense in the home. The Court invalidated the

ordinance, writing “banning from the home the most preferred firearm in the nation to keep and use for protection of one’s home and family’ [fails] constitutional muster.” 554 U.S. at 628-29 (cleaned up). There cannot be the slightest doubt that laws absolutely banning handguns are unconstitutional. Indeed, the panel majority acknowledged that “everyone can agree” that handgun bans are unconstitutional. Slip op. 3. The panel majority also acknowledged the “Illinois Act bans certain ... pistols.” Slip op. 6. Having acknowledged that the Act bans certain handguns, one would expect the majority to address the issue further and demonstrate how the State’s handgun ban is somehow distinguishable from the handgun ban invalidated in *Heller*. But it did not. Indeed, other than acknowledging that the State’s handgun bans exists, the majority never mentioned it again. Far less did it demonstrate how the handgun ban can be reconciled with *Heller*. Thus, the opinion manifestly conflicts with *Heller*.

B. The Panel’s Holding that a Firearm is not an *Arm* Conflicts with *Heller*

As noted above, the “textual analysis focuse[s] on the normal and ordinary meaning of the Second Amendment’s language.” *Bruen*, 142 S. Ct. at 2127 (citing *Heller*, 554 U.S. at 576–577, 578) (internal quotation marks omitted). *Heller* made the commonsense observation that all firearms are arms. 554 U.S. at 581. Yet the panel majority held that the firearms banned by the Act are not “arms” as that term is used in the Second Amendment. This holding cannot be reconciled with *Heller*.

C. The Panel Misconstrued *Heller*'s "Useful for Military Service" Passage

The panel majority held that to prevail on the merits Plaintiffs have the burden of showing that the banned arms are not "predominantly useful in military service." Slip op. 28. As noted, the panel used the AR-15 as the paradigmatic example of the kind of weapon the statute covers. Slip op. 6. The panel then held that AR-15s are similar to the M-16s that were once used in the military and are therefore not protected by the Second Amendment. Slip op. 26, 34 (citing *Heller*, 554 U.S. at 627 (weapons "most useful in military service" may be banned)).

There are two problems with this, one factual and one legal. First, as Judge Brennan accurately noted, the semi-automatic AR-15 is a civilian, not military, weapon, and no army in the world uses a service rifle that is only semiautomatic. Slip op. 82. More importantly, even assuming for the sake of argument that the AR-15 might be used by the military, the panel majority still misconstrued *Heller*, as the very passage they cited demonstrates. In that passage, the Court held that weapons in common use brought to militia service by members of the militia are protected by the Second Amendment. *Id.* What do militia members do with those weapons when they bring them to militia service? They fight wars.⁷ It would be extremely anomalous, therefore, if *Heller* were interpreted to mean simultaneously that (1) weapons brought by militia members for military service are protected by the Second Amendment, and (2)

⁷ See U.S. Const. amend. V (referring to "the Militia, when in actual service in time of War").

all weapons used for military service are not protected by the Second Amendment. This is obviously not the law. Rather, “*Heller* [merely] recognized that militia members traditionally reported for duty carrying ‘the sorts of lawful weapons that they possessed at home,’ and that the Second Amendment therefore protects such weapons as a class, regardless of any particular weapon’s suitability for military use.” *Caetano v. Massachusetts*, 577 U.S. 411, 419 (2016) (Alito, J., concurring). *See also Kolbe v. Hogan*, 849 F.3d 114, 156 (4th Cir. 2017) (Traxler, J., dissenting) (calling an arm a “weapon of war” is irrelevant, because under *Heller* “weapons that are most useful for military service” does not include “weapons typically possessed by law-abiding citizens.”).

D. The Panel’s Holding Conflicts with *Staples*

As discussed above, the panel held that AR-15s are similar to M-16s and may therefore be banned. Slip op. 34-35. As Judge Brennan correctly wrote, this holding directly conflicts with *Staples v. United States*, 511 U.S. 600 (1994). Slip op. 67. *Staples* held that the difference between semi-automatic weapons like the AR-15 and the automatic M-16 is legally significant. Indeed, the contrast between semiautomatic weapons and automatic weapons like the M-16 was key to the Court’s analysis. *Id.*, at 603. The Court contrasted ordinary firearms such as the AR-15 at issue in that case with “machineguns, sawed-off shotguns, and artillery pieces,” and stated that guns falling outside of the latter categories “traditionally have been *widely accepted as lawful possessions.*” *Id.*, at 612 (emphasis added). The point of the discussion was that

guns like the AR-15 have been widely accepted as lawful possessions, and therefore *mens res* was not established merely by establishing that the defendant knew he was in possession of an AR-15. Thus, the panel's holding that AR-15s are legally indistinguishable from machine guns like the M-16 conflicts with *Staples*.

The panel believes that semi-automatic firearms may be banned because they are similar to automatic firearms. But that is wrong because many of the handguns that *Heller* held are protected by the Second Amendment are also semi-automatic. In *Heller v. D.C.*, 670 F.3d 1244 (D.C. Cir. 2011), then-Judge Kavanaugh put the matter this way: "D.C. asks this Court to find that the Second Amendment protects semi-automatic handguns but not semi-automatic rifles. There is no basis in *Heller* for drawing a constitutional distinction between semi-automatic handguns and semi-automatic rifles." *Id.*, at 1286 (Kavanaugh, J., dissenting). And then Judge Kavanaugh got to the crux of the matter raised by the panel's holding:

[A line between semi-automatic handguns and semi-automatic rifles] might be drawn out of a bare desire to restrict *Heller* as much as possible or to limit it to its facts, but that is not a sensible or principled constitutional line for a lower court to draw or a fair reading of [*Heller*].

Id., n.14.

In summary, as then-Judge Kavanaugh wrote, there is no meaningful constitutional distinction between the semi-automatic handguns protected under *Heller* and the semi-automatic rifles banned by the State. It follows that

the panel's holding that the rifles are unprotected because their ability to fire semi-automatically makes them similar to machine guns conflicts with *Heller*.

E. The Panel Failed to Apply *Bruen* to the Magazine Ban

Concerning the Act's ban of "large capacity magazines," the panel wrote:

Turning now to large-capacity magazines, we conclude that they also can lawfully be reserved for military use. Recall that these are defined by the Act as feeding devices that have in excess of 10 rounds for a rifle and 15 rounds for a handgun. Anyone who wants greater firepower is free under these laws to purchase several magazines of the permitted size. Thus, the person who might have preferred buying a magazine that loads 30 rounds can buy three 10-round magazines instead.

Slip op. 34.

The Court might wonder what else the panel said to justify its decision to uphold the magazine ban. But that's it, one paragraph. This is not judicial analysis. This is judicial fiat. Moreover, the panel's fiat conflicts with *Heller*. As discussed above, the fact that a weapon may be used by the military does not mean that the State can ban it if the weapon is in common use for lawful purposes. Moreover, the panel seems to be under the impression that the State can ban some magazines (even though they are in common use) so long as it deigns to allow its citizens to acquire other magazines. But there is no limiting principle to the panel's reasoning. Can the State also ban magazines with a capacity in excess of two rounds because anyone who wants greater firepower is free to purchase several magazines of the permitted size? It would seem so, because under the panel's analysis, a person who might have preferred buying

a magazine that loads 30 rounds can buy 15 two-round magazines instead. This conclusion – which flows logically from the panel’s holding – obviously conflicts with *Heller*. Indeed, *Heller* rejected the precise argument advanced by the panel when it held that it is “no answer” to say that banning a commonly possessed arm is permitted so long as other arms are allowed. 554 U.S. at 629.

F. The Panel Majority’s Continued Reliance on *Friedman* Cannot be Reconciled with *Bruen* or *Caetano*

In *Friedman v. City of Highland Park, Illinois*, 784 F.3d 406 (7th Cir. 2015), the Court announced a unique three-part test to determine Second Amendment questions. Under this test, a court asks: “whether a regulation [1] bans weapons that were common at the time of ratification or [2] those that have ‘some reasonable relationship to the preservation or efficiency of a well regulated militia’ . . . and [3] whether law-abiding citizens retain adequate means of self-defense.” *Id.*, 784 F.3d at 410. All three legs of this test are foreclosed by Supreme Court precedent:

[1] The Second Amendment’s “reference to ‘arms’ does not apply only to those arms in existence in the 18th century.” *Bruen*, 142 S. Ct. at 2132 (cleaned up).

[2] The Second Amendment’s operative clause “does not depend on service in the militia.” *Bruen*, 142 S. Ct. at 2127.

[3] “[T]he right to bear other weapons is ‘no answer’ to a ban on the possession of protected arms.” *Caetano v. Massachusetts*, 577 U.S. 411, 421 (2016) (*per curiam*), quoting *Heller*, 554 U.S. at 629.

It is a mystery why the panel majority believes *Friedman* has any continuing relevance at all when all three legs of the stool upon which it is propped have been knocked out by the Supreme Court. It is even more mystifying that the panel would base its holding in part on the obviously abrogated *Friedman* test, and doing so obviously conflicts with the Supreme Court decisions that knocked out *Friedman's* three legs set forth above.

G. Summary: The Panel's Analysis Was Faulty and Plaintiffs' Should Prevail on the Merits

In summary, the panel majority's analysis was faulty. Therefore, notwithstanding the panel's decision, Plaintiffs should prevail on the merits.

IV. Plaintiffs Are Suffering Irreparable Harm

Plaintiffs have established that they are likely to prevail on the merits of their claim that the Act violates the Second Amendment. Violation of constitutional rights per se constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373-74 (1976) (loss of constitutional freedom "for even minimal periods of time" unquestionably constitutes irreparable injury). Recently, the Ninth Circuit applied the *Elrod* principle in the Second Amendment context. *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023). *See also Ezell v. City of Chicago*, 651 F.3d 684, 699 (7th Cir. 2011) (also applying principle in Second Amendment context).

Moreover, Plaintiffs are applying for emergency relief because they are suffering much more than intangible harm to constitutional rights. Respondents are literally destroying Mr. Bevis's livelihood, because the challenged laws

are forcing LWI out of business. ECF 71-1 ¶ 13. 85% of the firearms LWI sells are now banned. *Id.*, ¶ 12. LWI's cash reserves have been depleted, and as a result, it has had to lay off employees and ask the Bevis family to work without pay. *Id.*, ¶ 13. Mr. Bevis has extended his personal credit, missed personal payments like home and car payments, maxed his credit limits, and taken out loans to pay the monthly bills. *Id.* LWI will not be able to abide by the terms of its 15-year commercial lease for its business real property or pay equipment leases and purchase inventory if these bans remain in effect much longer. *Id.* In short, LWI will be put out of business if these laws are enforced. *Id.* In *Cavel Int'l, Inc. v. Madigan*, 500 F.3d 544, 546 (7th Cir. 2007), the court held that the plaintiffs "made a compelling case that it needs the injunction pending appeal to avert serious irreparable harm—the uncompensated death of its business." Here, the Court should enter an injunction to prevent further irreparable harm.

V. An Injunction Would Not Harm the Public Interest

However strong Defendants' asserted public safety policy may be, the public has no interest in furthering that policy by unconstitutional means. As this Court stated in *Heller* in response to an identical argument, "the enshrinement of constitutional rights necessarily takes certain policy choices off the table. These include the absolute prohibition of [arms commonly] held and used for self-defense in the home." *Id.*, 554 U.S. at 636. And as this Court stated in *Bruen*, the interest-balancing inherent in the district court's public interest

analysis has no place in resolving questions under the Second Amendment. *Id.*, 142 S. Ct. at 2126. It is always in the public interest to enjoin an unconstitutional law. See *N.Y. Progress & Prot. PAC v. Walsh*, 733 F.3d 483, 488 (2d Cir. 2013).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully move the Court to enter an injunction pending the disposition of Plaintiffs' petition for rehearing en banc in this Court and the filing and disposition of any follow-on petition for writ of certiorari.

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**CERTIFICATE OF COMPLIANCE WITH
Fed. R. App. P. 32(a)(7), Fed. R. App. P. 32(g) and Cir. R. 32(b) & (c)**

The undersigned, counsel of record for the Appellants furnishes the following in compliance with F.R.A.P. Rule 32(a)(7):

The undersigned hereby certifies that this brief complies with the type volume limit of Fed. R. App. P. 32(a)(7)(B) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this brief contains 4,027 words.

The undersigned further certifies that this brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 12 point Century Schoolbook font.

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CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2023, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing via email counsel of record:

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United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted November 21, 2023
Decided November 22, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 23-1353

ROBERT BEVIS, *et. al.*,
Plaintiffs-Appellants,

v.

CITY OF NAPERVILLE, ILLINOIS, and JASON
ARRES,
Defendants-Appellees,

and

THE STATE OF ILLINOIS,
Intervening Appellee.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 1:22-cv-04775

Virginia M. Kendall,
Judge.

ORDER

Plaintiffs-Appellants' motion for an injunction pending the disposition of their petition for rehearing *en banc* and the filing and disposition of any follow-on petition for a writ of certiorari in the Supreme Court of the United States is **DENIED**.