

No. 25-238

IN THE
Supreme Court of the United States

CUTBERTO VIRAMONTES, *et al.*,
Petitioners,
v.
COOK COUNTY, *et al.*,
Respondents.

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

**AMICI CURIAE BRIEF OF PEACE OFFICERS
RESEARCH ASSOCIATION OF CALIFORNIA,
CALIFORNIA ASSOCIATION OF HIGHWAY
PATROLMEN, AND THE CRIME PREVENTION
RESEARCH CENTER IN SUPPORT
OF PETITIONERS CUTBERTO
VIRAMONTES, ET AL.**

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INTEREST OF *AMICI CURIAE*

This brief is submitted on behalf of *Amici Curiae* the Peace Officers Research Association of California (“PORAC”), the California Association of Highway Patrolmen (“CAHP”), and the Crime Prevention Research Center (“CPRC”) in support of Petitioners Cutberto Viramontes *et al.*¹

Incorporated in 1953, PORAC is a professional federation of local, state, and federal law enforcement agencies representing over 89,000 California law enforcement and public safety professionals. It is the largest law enforcement organization in California and the largest statewide association nationally. PORAC organizes, empowers, and represents rank-and-file peace officers, identifying the law enforcement community’s needs and providing programs to meet them through research, education and training, and enhanced professionalism standards. It lobbies legislation and files *amicus curiae* briefs in litigation affecting public safety, offering perspectives unique to law enforcement professionals.

Founded in 1920, CAHP is one of California’s oldest and most established law enforcement associations and has been the collective voice of California Highway Patrol (“CHP”) officers for over a century. Working in close partnership with the CHP, CAHP helps sustain the agency’s high level of public trust, exemplifying professionalism, integrity, and public service throughout the law enforcement community.

¹ Pursuant to Supreme Court Rule 37.6, *amici* represent that this brief was prepared in its entirety by *amici curiae* and their counsel. No party’s counsel authored this brief in whole or in part, and no party, party’s counsel, or other person funded its preparation or submission.

Its members patrol California's highways, investigate narcotics, gang, cartel, trafficking, and other organized crime activity, and discharge the agency's unique protective responsibilities. They have direct, front-line insight into the real-world consequences of the firearms laws at issue here.

CPRC is a 501(c)(3) nonprofit that conducts and publishes academic-quality research on the relationship between firearm laws, crime, and public safety. It accepts no donations from organizations associated with guns, ammunition, or the gun-control debate. Its academic advisors are affiliated with Wharton, the University of Chicago, Harvard, the University of Michigan, Emory, and other universities. CPRC was founded by Dr. John R. Lott, Jr., an economist and world-recognized expert on guns and crime who has served as the Senior Advisor for Research and Statistics in the Office of Justice Programs and the Office of Legal Policy at the U.S. Department of Justice and was Chief Economist at the U.S. Sentencing Commission from 1988 to 1989. He has held research or teaching positions at the University of Chicago, Yale University, Wharton, Stanford, UCLA, and Rice. He holds a Ph.D. in economics from UCLA. He has published over 100 articles in peer-reviewed journals and has written ten books. Among economics, business, and law professors, his research is the fourteenth most downloaded worldwide.

Amici are not partisans in the Nation's firearm policy debate. They are statisticians and law-enforcement professionals with no financial or political stake in the outcome. They are joined only by a professional commitment to measures effectively protecting the public and those officers who serve it. PORAC and CAHP members run toward the sound of gunfire, and

CPRC analyzes crime data. Their combined perspectives focus on effectiveness, not politics. The semi-automatic rifle ban at issue here, Cook County’s assault-weapon ordinance (the “Ordinance”), much like the Protect Illinois Communities Act, Connecticut’s 2014 An Act Concerning Gun Violence Prevention and Children’s Safety, and California’s parallel restrictions, does not make the public or officers safer. PORAC’s and CAHP’s members enforce California’s firearms laws every day, witnessing both the human cost of violent crime and the futility of laws disarming law-abiding citizens. The challenged restrictions directly burden their members’ right to acquire, keep, and retain commonly owned firearms for duty and for the protection of themselves and their families. Concerningly, California has extended the same feature-based approach into a *de facto* ban on nearly all modern handguns through its Unsafe Handgun Act (“UHA”), which PORAC and CAHP opposed as *amici* in a pending Ninth Circuit appeal.²

Amici share a common conviction that firearms regulation should focus on the misuse of firearms, disarming prohibited persons and those posing a physically-violent danger to themselves or others, confining violent offenders under gun-enhancement statutes, and securing the self-defense rights of the law-abiding, rather than furnishing a symbolic substitute that faults the arm for the consequences of lax enforcement. As organizations representing California law-enforcement, *amici* have a direct stake in this appeal. Their members are burdened by materially identical California restrictions, and the constitutional standard this Court announces will govern the

² *Boland v. Bonta*, 662 F. Supp. 3d 1077 (C.D. Cal. 2023), *appeal docketed*, No. 23-55276 (9th Cir. Mar. 27, 2023).

Second Amendment challenges to those California laws now pending in the Ninth Circuit. *Amici* therefore have a concrete interest in the standard this Court adopts.

SUMMARY OF ARGUMENT

The rifles the Ordinance bans are in common use and are therefore protected. Americans own an estimated twenty to thirty million AR-15s, lawful in forty-one States.³ Arms in common use by law-abiding citizens for lawful purposes may not be prohibited.⁴ CPRC’s empirical record confirms these bans do not work. Criminals do not obtain firearms through the retail channels the bans regulate, rifles account for an insignificant and ever-shrinking share of homicides, and the 1994 Federal Assault Weapons Ban (“federal ban”) demonstrates that these types of bans produce no measurable reduction in murders, mass shootings, or officer casualties.

Officers bear a heightened need for the arms at the center of this case, AR-15-platform semi-automatic rifles, yet California restricts that right during employment and extinguishes it at retirement, requiring them to surrender, disable, sell, or remove the weapon from the State.⁵ California therefore burdens the rights of its peace officers and its law-abiding citizens alike.

³ *Snope v. Brown*, 145 S. Ct. 1534, 222 L. Ed. 2d 1059 (2025) (Kavanaugh, J., statement respecting the denial of certiorari); see also *Garland v. Cargill*, 602 U.S. 406, 429–30 (2024) (Sotomayor, J., *dissenting*).

⁴ *D.C. v. Heller*, 554 U.S. 570 (2008); *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022).

⁵ Cal. Penal Code §§ 30625, 30630(a), (b)(1)-(2), 30945(a)-(g), 30915(a)-(d).

The Ordinance reflects a careful strategy to circumvent the Second Amendment, an effort carried furthest by California. Because the Ordinance and California’s regime share the same feature-based restriction methodology, the rule this Court adopts will control both. A legislature, knowing it cannot ban a common firearm outright, forbids its operating features instead so that banning the features effectively results in banning the arm. California applied this same blueprint to handguns through its UHA. Because a ban on a feature is in operation a ban on every common arm that bears it, *Heller’s* common-use test resolves these feature-based bans, and they fail *Bruen’s* how-and-why test in any event.⁶ The concern these bans’ proponents invoke, reducing firearm misuse, is centuries old, yet no founding-era tradition supports banning common arms. Therefore, the bans lack the historical analogue the Constitution demands. And because the Second Amendment measures prohibitions by burden, not their label, a feature-based ban of a class of arms in common use is as invalid as a prohibition by name.⁷

Finally, California suppresses constitutional rights through ineffectual regulation while abandoning the enforcement that *would* reduce gun violence, making sentencing enhancements that punish armed criminals discretionary while tolerating non-enforcement against armed, prohibited persons.⁸ The judgments below should be reversed.

⁶ *Change to New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1, 29 (2022).

⁷ *Heller*, 554 U.S. at 629.

⁸ Cal. Penal Code § 12022.5.

ARGUMENT

I. The Banned Rifles Are in Common Use and the Challenged Laws Do Not Enhance Safety

A. AR-15 Platform Rifles Are in Common Use and Therefore Protected

The analysis begins and ends with common use. Under *Bruen*, when the Second Amendment’s plain text covers individual conduct, the Constitution presumptively protects it, and the government must justify its regulation as consistent with the Nation’s historical tradition of firearm regulation.⁹ Semi-automatic rifles are “Arms” within the meaning of the Second Amendment and the Constitution presumptively protects the right to keep and bear them.¹⁰ That protection reaches even arms “not in existence at the time of the founding,” subject to a single limitation prohibiting “dangerous and unusual weapons” not “in common use.”¹¹ Common use is therefore dispositive. An arm in common use for lawful purposes may not be banned.

AR-15 rifles are indisputably in common use. Such firearms “are both widely legal and bought by many ordinary consumers.”¹² On a developed record, the Third Circuit found roughly 24 million rifles in circulation and held that rifles “in circulation for

⁹ *Bruen*, 597 U.S. at 17.

¹⁰ *Ass’n of New Jersey Rifle & Pistol Clubs, Inc. v. Att’y Gen. New Jersey*, 183 F.4th 211, 239 (3d Cir. 2026) (“*New Jersey Rifle*”); *Wolford v. Lopez*, 146 S. Ct. 2032, 2041 (2026).

¹¹ *Heller*, 554 U.S. at 582; see also *Caetano v. Massachusetts*, 577 U.S. 411, 411 (2016).

¹² *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 297 (2025).

lawful purposes are plainly in common use.”¹³ Owners keep them for self-defense, target shooting, hunting, and pest control.¹⁴ Their ergonomics, mild recoil, and accuracy make them the appropriate choice for home defense.¹⁵ A firearm tens of millions of law-abiding Americans own for lawful purposes cannot be called unusual. The arms Cook County bans are no different. The Ordinance reaches the AR-15 platform and other semi-automatic rifles owned by millions of Americans. The Ordinance therefore prohibits arms in common use, just as California’s regime does.

Lower courts are divided, and the split turns on adherence to the common-use touchstone. The Third Circuit held a ban materially identical to the Ordinance unconstitutional as to the entire class of semi-automatic rifles because they are “plainly in common use.”¹⁶ By contrast, the Seventh Circuit upheld the Ordinance as “consistent with the principles that underpin our Nation’s tradition of firearm regulation.”¹⁷

California’s district courts divide the same way. One struck a materially identical ban as prohibiting “commonly owned” rifles with “no historical pedigree,”¹⁸ while another upheld it by treating AR-15s as “substantially similar” to M-16s¹⁹. Decisions upholding these bans cannot be squared with *Heller*.

¹³ *New Jersey Rifle*, 183 F.4th at 242.

¹⁴ *Id.* at 241-42.

¹⁵ *Id.*

¹⁶ *Id.* at 242.

¹⁷ *Barnett v. Raoul*, 180 F.4th 1035, 1045 (7th Cir. 2026).

¹⁸ *Miller v. Bonta*, 699 F. Supp. 3d 956 (S.D. Cal. 2023).

¹⁹ *Rupp v. Bonta*, 723 F. Supp. 3d 837 (C.D. Cal. 2024).

AR-15s are owned by tens of millions of law-abiding citizens and fire only semi-automatically, exactly like the handguns *Heller* protected. Lower courts remain bound to apply *Heller*'s common-use touchstone faithfully, and the decisions upholding these feature-based bans have not done so.²⁰

**B. The Empirical Record Shows That
Assault Weapon Bans Do Not Reduce
Violent Crime, Mass Shootings, or
Threats to Officers**

There is no credible evidence that “assault-weapon” bans meaningfully reduce gun homicide or crime overall. Because so few states have enacted such bans, and all only recently, their impacts are hard to measure directly. But nothing in the research suggests state bans will outperform the 1994 Federal Assault Weapons Ban (“federal ban”), which had no discernible effect on gun violence and was allowed to sunset. This record matters not because efficacy is the constitutional test, for the historical inquiry governs, but because it rebuts Cook County’s central factual premise. Cook County defends these bans as vital safety measures and pronounces that protecting common arms will invite violence. The empirical record refutes that prediction, confirming that a ruling for Petitioners restores a constitutional right without the consequences Cook County forecasts.

**1. Criminals Buy Guns from Other
Sources.**

Criminals do not buy firearms legally. The Bureau of Justice Statistics has repeatedly surveyed prisoners

²⁰ *Snope*, 145 S. Ct. 1534.

who possessed a firearm during their offense, with strikingly consistent results. In the latest survey, 56% of these prisoners either stole the gun (6%), found it (7%), or obtained it off the street or from the underground market (43%).²¹ Feature-based bans thus accomplish little. Nothing prevents a buyer from choosing a compliant semi-automatic that fires the same rounds, at the same rate, with the same effect as the banned models, because the banned rifle's operating mechanism is identical to that of ordinary small-caliber semi-automatic hunting rifles. As Cesare Beccaria observed in *On Crimes and Punishments*, the treatise that shaped the Founders' thinking, laws that forbid the carrying of arms "disarm those only who are neither inclined nor determined to commit crimes," for those willing to violate the gravest laws will not be deterred by lesser ones.²² Experience abroad confirms this. Mexico has had a single, lawful gun store since 1972 and licenses roughly 1% of its adult citizens to own firearms. Yet, in 2025, its homicide rate was over four times that of the United States, largely because criminals obtain firearms illegally, mostly from traffickers.²³ Offenders increasingly manufacture their

²¹ Mariel Alper & Lauren Glaze, Bureau of Just. Stat., U.S. Dep't of Just., Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016, tbl. 5, at 7 (Jan. 2019).

²² Cesare Beccaria, *On Crimes and Punishments* ch. 40 (1764); see *Miller*, 699 F.Supp.3d 956 (invoking the same passage).

²³ Mexico's homicide rate was 17.5 per 100,000 people in 2025, while the U.S. rate that year was 4.1 per 100,000 people, 4.3% lower. Programa Nacional de Seguridad Pública 2026–2030, Diario Oficial de la Federación [DOF] (Mex.), § 5, "Homicidio doloso," https://diariooficial.segob.gob.mx/nota_detalle_popup.php?codigo=5787685; see "FBI Releases 2025 Reported Crimes in the Nation Statistics," Fed. Bureau of Investigation, U.S.

own untraceable firearms as well, which feature-based prohibitions do nothing to reach.

2. The Banned Firearms are an Insignificant and Shrinking Share of Gun Homicides.

Assault-weapon bans reach a category of firearm rarely used in murder. The FBI reports that, of the 16,091 murders in 2025 in which the cause of death was identified (a category that excludes justifiable homicides), only 494 involved rifles or shotguns of any type.²⁴ A nationwide ban would reach, at most, fewer than 3.1% of murders.²⁵ A measure touching so small a share of gun-related crime cannot produce any discernible decrease in gun violence. The pattern holds over time. Rifles were used in 4.8% of firearm murders before the ban took effect in September 1994, 4.9% while it was in effect (1995-2004), and just 3.6% afterward.²⁶

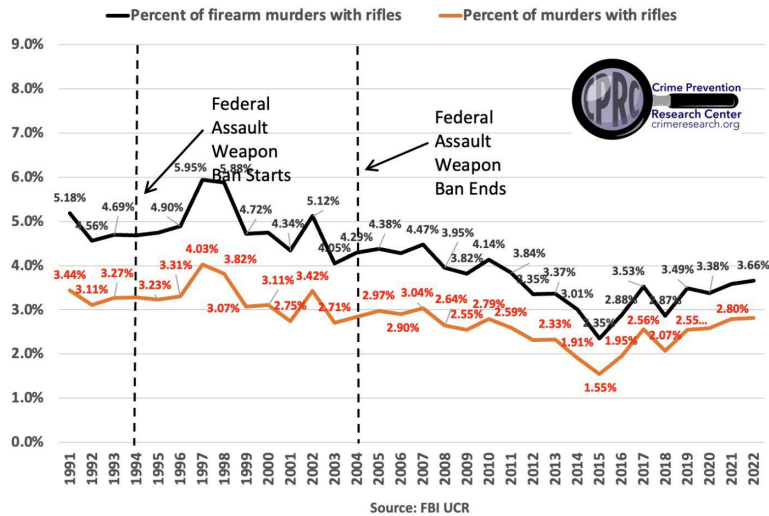
Dep't of Just. (Aug. 14, 2026), https://www.fbi.gov/news/press-releases/fbi-releases-2025-reported-crimes-in-the-nation-statistics?utm_source=chatgpt.com.

²⁴ Fed. Bureau of Investigation, U.S. Dep't of Just., Crime Data Explorer (Homicide Offense Characteristics), <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> (last visited Aug. 22, 2026).

²⁵ See also DataIntel, *Sports Shotgun Market Research Report 2034*, <https://dataintel.com/report/global-sports-shotgun-market> (updated Apr. 2026) (in the section "Sports Shotgun Market Analysis by Product Type").

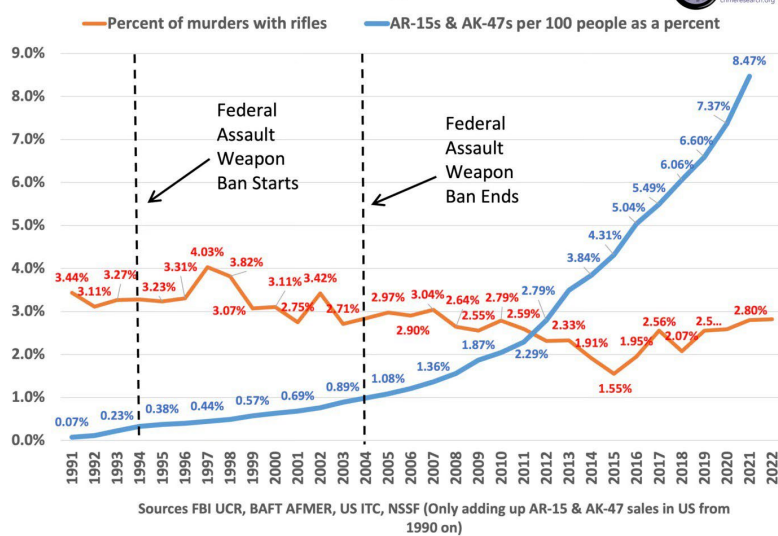
²⁶ Fed. Bureau of Investigation, U.S. Dep't of Just., Crime in the United States, Expanded Homicide Data tables (various years), available at <https://ucr.fbi.gov/how-we-can-help-you/ore-fbi-services-and-information/ucr/publications>.

How has the rate that rifles were used in murders and firearm murders changed over time?



The share of total murders committed with rifles held steady or declined even as ownership of AR-15s and AK-47s soared.

How has the rate that rifles were used in murders changed over time?



Connecticut's experience is illustrative. In the five years preceding its 2014 ban, rifles and shotguns of every type accounted for only four of the 297 murders in which the weapon was identified, or 1.3%. This is fewer than those committed with hands, fists, and feet (21) or with knives and other cutting instruments (40).²⁷

The same holds true for peace-officer homicides. In the decade of the federal ban, 594 law enforcement officers were feloniously killed, 545 with a firearm, but only 21% of those being with a rifle of any type.²⁸ In contrast, 511 officers were feloniously killed between 2010 and 2019, 471 with a firearm.²⁹ Of those, approximately 78% used a handgun, where again only 21% used a rifle of any type.³⁰ Rifles while thus a smaller share of the weapons used to murder officers in every period, far behind handguns, and that share did not fall during the federal ban. The ban did no more to protect officers than it did the public.

²⁷ Fed. Bureau of Investigation, U.S. Dep't of Just., Crime Data Explorer (Connecticut, Expanded Homicide Data, 2009-2013), <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> (last visited Aug. 25, 2026).

²⁸ Fed. Bureau of Investigation, *Table 28: Law Enforcement Officers Killed, Type of Weapon, 1995-2004*, Uniform Crime Reports, <https://www2.fbi.gov/ucr/killed/2004/table28.htm> (last visited Aug. 23, 2026).

²⁹ Fed. Bureau of Investigation, *Table 28: Law Enforcement Officers Feloniously Killed, Type of Weapon, 2010-2019*, Crime Data Explorer, <https://ucr.fbi.gov/leoka/2019/tables/table-28.xls> (last visited Aug. 23, 2026).

³⁰ *Id.*

3. All Credible Studies Conclude That Assault Weapon Bans Have No Meaningful Effect on Gun-Related Crime

Every rigorous assessment of the federal ban reached the same conclusion. A 1997 study for the National Institute of Justice found that gun-homicide rates declined after the ban took effect but cautioned that “[t]he evidence is not strong enough for us to conclude that there was any meaningful effect (i.e., that the effect was different from zero).”³¹ A 2004 follow-up study, also by the National Institute of Justice, agreed, finding that “[w]e cannot clearly credit the ban with any of the nation’s recent drop in gun violence” and “there has been no discernible reduction in the lethality and injuriousness of gun violence, based on indicators like the percentage of gun crimes resulting in death or the share of gunfire incidents resulting in injury[.]”³²

Independent state-level work reaches the same result. Controlling for pre-existing differences across states and years, one study of 1980-2009 data by Mark Gius found assault-weapon bans had no measurable effect on murder rates.³³ A panel study published by the University of Chicago Press tracking states from 1977 to 2005 by their coverage under the federal and

³¹ Christopher S. Koper & Jeffrey A. Roth, *Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994*, at 6 (Urban Inst. Mar. 13, 1997).

³² Christopher S. Koper et al., *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, at 96 (Nat’l Inst. of Just. June 2004).

³³ Mark Gius, *An examination of the effects of concealed weapons laws and assault weapons bans on state-level murder rates*, 21 *Applied Econ. Letters* 265 (2014).

state bans, while controlling for pre-existing differences, twelve other types of gun-control, and hundreds of additional demographic and economic variables, likewise found no effect.³⁴ Breaking down the data by county and city produced similar results. Additionally, broader comparisons point the same way.³⁵ If even outright prohibitions do not lower murder rates, assault-weapon bans cannot be expected to. Murder rates have *risen* in every jurisdiction that has banned guns outright, whether all firearms or only handguns, including Chicago, D.C., and nations such as England, Jamaica, Ireland, Venezuela, and the Solomon Islands.³⁶

A 2018 study published in the *Journal of Urban Health* examining “current levels of criminal activity with assault weapons and other high-capacity semiautomatics in the USA[,]” found no evidence that assault-weapons bans reduced murders or mass public shootings.³⁷

The studies most often cited supporting a contrary view do not withstand scrutiny. One study in the *Journal of Trauma & Acute Care Surgery* relied on purely time-series data from 1981 to 2017 and keyed to just two events, the federal ban’s 1994 implementation and its 2004 expiration, controlling for no other

³⁴ John R. Lott, *More Guns, Less Crime: Understanding Crime and Gun Control Laws* (3d ed. 2010).

³⁵ *Id.*

³⁶ *Id.*

³⁷ Christopher S. Koper et al., *Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: An Updated Examination of Local and National Sources*, 95 *J. Urb. Health* 313 (2018).

factors.³⁸ Though it reported “mass-shooting related homicides in the United States were reduced during the years of the federal assault weapons ban of 1994 to 2004,” it made no attempt to distinguish states with their own assault-weapon bans from those without.³⁹ Where mass public shootings occurred in states with their own bans, in either period, the study misleads by commingling attacks with and without assault weapons and never measuring whether the rate of assault-weapons attacks changed. If its thesis held, the share of attacks involving assault weapons would have fallen during the federal ban and risen after. But, as the discussion below shows, it did not.

A second study is in *Applied Economics Letters*, but it drew on Mother Jones data that criminologist James Alan Fox found unreliable for its “decision to disqualify cases based on certain criteria hard to defend” and “questionable motive-based selectivity.”⁴⁰ While the study concluded “fatalities due to mass shootings were lower during both the federal and state assault weapons ban periods,” it never examined whether attacks with assault weapons rose after the

³⁸ Charles DiMaggio et al., *Changes in US mass shooting deaths associated with the 1994–2004 federal assault weapons ban: Analysis of open-source data*, 85 *J. Trauma & Acute Care Surgery* 11 (2018).

³⁹ *Id.* at 18-19.

⁴⁰ Mark Gius, “The impact of state and federal assault weapons bans on public mass shootings,” *Applied Economics Letters*, 2015: 281-284; James Alan Fox, *Responding to Mother Jones*, James Alan Fox Blog (Jan. 31, 2013), <https://jamesalanfox.com/Blogs/186%20Jan%2031%202013%20%20Responding%20to%20Mother%20Jones.pdf>; see Mark Follman et al., *US Mass Shootings, 1982-2026: Data From Mother Jones’ Investigation*, Mother Jones, (Dec. 2012) <https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/>.

ban, and it accounted for no law-enforcement effect or gun-control measure other than the federal ban.⁴¹

Moreover, the premise underlying these bans is itself mistaken, as assault rifles are not the predominant weapon used in mass shootings. Between January 1, 1998, and December 31, 2025, 51.4% of attacks used solely handguns, and 18.7% used only rifles of *any* type (36.5% of attacks used solely rifles or rifles in conjunction with another type of gun). Seventy-seven percent of the attacks involved only handguns or handguns in combination with another firearm.⁴² The deadliest attacks did not involve rifles or large-capacity magazines but instead involved multiple types of weapons.⁴³

Detachable magazines without artificial capacity limitations are “Arms” within the meaning of the Second Amendment. A firearm cannot function without one, and magazines that hold more than ten rounds are in common use, owned by tens of millions of Americans as standard equipment on the Nation’s most popular rifles and handguns.⁴⁴ The Ordinance burdens that common component by defining a

⁴¹ Mark Gius, *The impact of state and federal assault weapons bans on public mass shootings*, 21 Applied Econ. Letters 265, 268 (2014).

⁴² Crime Prevention Res. Ctr., *Updated Detailed Information on Mass Public Shootings from 1998 to 2025*, Crime Prevention Res. Ctr. (Jan. 30, 2026), <https://crimeresearch.org/2026/01/updated-detailed-information-on-mass-public-shootings-from-1998-to-2025/>.

⁴³ John R. Lott, Jr., “The War on Guns,” Regnery Publishing, 2016: p. 121.

⁴⁴ *New Jersey Rifle*, 183 F.4th 211; *Ass’n of New Jersey Rifle & Pistol Clubs, Inc. v. Att’y Gen. New Jersey*, 910 F.3d 106, 116 (3d Cir. 2018).

prohibited “assault weapon” by the capacity to accept a detachable magazine joined to a single feature. It further independently outlaws “large capacity” “ammunition feeding devices.” A limit on the number of rounds a magazine may hold and a ban keyed to the detachable magazine both regulate the feeding device the arm requires so as to disable or forbid the common arm itself. Under *Bruen* each must be supported by a historical analogue which the State cannot supply.⁴⁵ The empirical record confirms the futility of both. Studying crime-gun data in Virginia from 1993 to 2013, economist Carlisle Moody found that “[large capacity magazines] have little to do with homicide[,] and laws banning these products apparently have no effect.”⁴⁶ Specifically, he found no relationship between the prevalence of large-capacity magazines and the State’s murder or firearm-homicide rates, even as their share of recovered crime guns rose after the federal ban expired.⁴⁷

Examining mass shootings, criminologist Gary Kleck found that shooters fire so slowly that the time needed to reload a magazine would not lengthen the interval between shots or the time available for

⁴⁵ *New Jersey Rifle*, 183 F.4th 211 (holding materially identical large-capacity-magazine provisions inconsistent with the Second Amendment).

⁴⁶ Carlisle E. Moody, *Large Capacity Magazines and Homicide*, at 7 (Coll. of William & Mary, Econ. Working Paper No. 160, Apr. 9, 2015).

⁴⁷ *Id.* at 12-16; see David S. Fallis & James V. Grimaldi, *Va. Data Show Drop in Criminal Firepower During Assault Gun Ban*, Wash. Post (Jan. 23, 2011).

victims to escape.⁴⁸ The record discloses no measurable relationship between such limits and homicide or mass-shooting outcomes. The corollary is that magazine limits disarm the law-abiding at the moment of need. Reviewing documented defensive-gun uses catalogued by the Gun Violence Archive, itself a gun-control organization, CPKC found that armed citizens fired an average of 3.31 shots in self-defense, and more than fifteen in some encounters, so a ten-round cap can leave a defender, including an off-duty officer, without the rounds a violent confrontation demands.⁴⁹

Advocates repeatedly invoke Columbia University Professor Louis Klarevas's *Rampage Nation* to support these bans, despite the book not being peer-reviewed. Klarevas analyzes only shootings with six or more fatalities, a threshold few, if any, other studies use and one he never justifies, and considers public shootings together with gang shootings, rather than distinguishing them.⁵⁰ He also omits the comparisons that matter, like how death rates changed in states where the federal ban actually affected citizens' ability to own assault weapons, measured against states with their own bans. Others who have drawn that comparison found no effect.

In an email to Jon Stokes, a co-founder of Ars Technica and founding editor of AllOutdoor.com,

⁴⁸ Gary Kleck, Large-Capacity Magazines and the Casualty Counts in Mass Shootings: The Plausibility of Linkages, 17 Just. Res. & Pol'y 28, 28-47 (2016).

⁴⁹ John R. Lott, There Are Far More Defensive Gun Uses Than Murders in America. Here's Why You Rarely Hear of Them, RealClearInvestigations (Sept. 22, 2021).

⁵⁰ Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (2016).

Klarevas identified seven mass shootings involving assault weapons from 1984 through 1993.⁵¹ Applying “the most widely accepted threshold for categorizing a shooting as a ‘mass shooting’,” four fatalities instead of six, “the 1994 to 2004 drop in fatalities disappears entirely.”⁵² For the ban decade itself, “Klarevas concedes . . . that of the shootings in his dataset, only three actually involved assault weapons.”⁵³ Stokes concludes those numbers “are far too small for any sort of statistical inference” to support a ban on “tens of millions of legally owned rifles.”⁵⁴

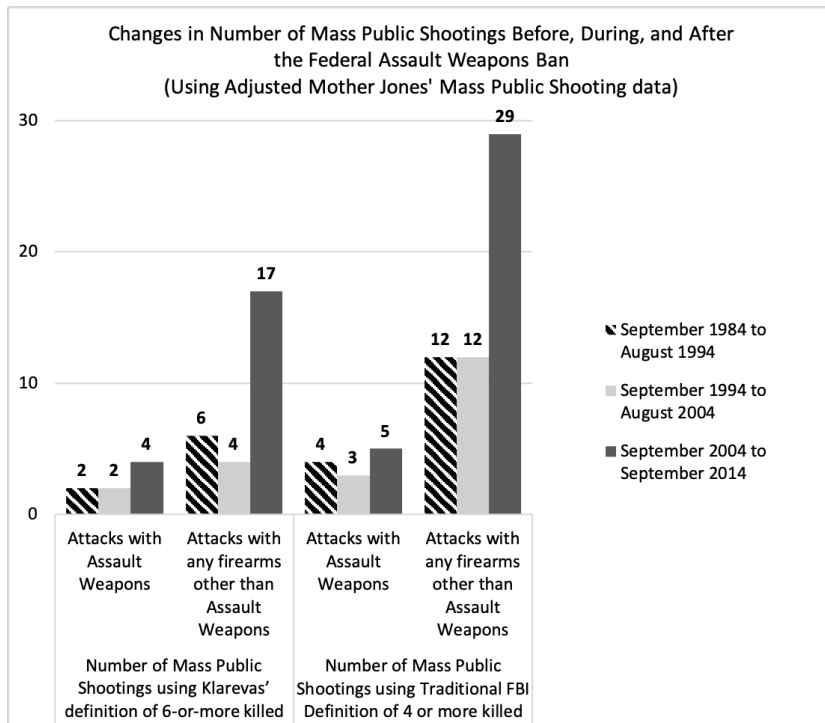
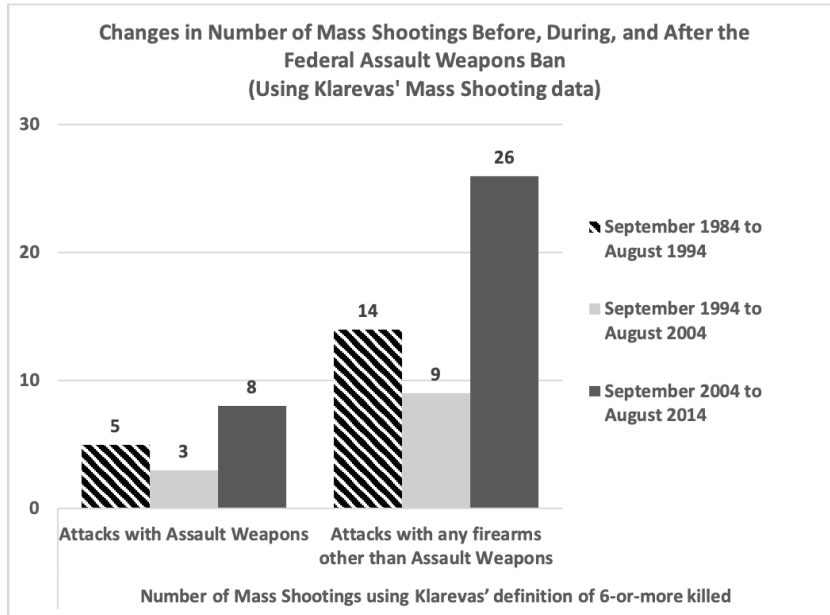
CPRC’s own analysis reaches the same result across datasets. Whichever dataset is analyzed, the number of mass shootings committed with assault weapons is very small relative to the total. Mother Jones’ list shows a difference of only one or two attacks between each ten-year period from 1984 to 2014, whether measured by the FBI’s four-plus definition or Klarevas’s six-or-more threshold.

⁵¹ Jon Stokes, *The Assault Weapons Ban Didn’t Work. A New Version Won’t, Either*, Los Angeles Times (Mar. 1, 2018), <https://www.latimes.com/opinion/op-ed/la-oe-stokes-assault-weapon-ban-20180301-story.html>.

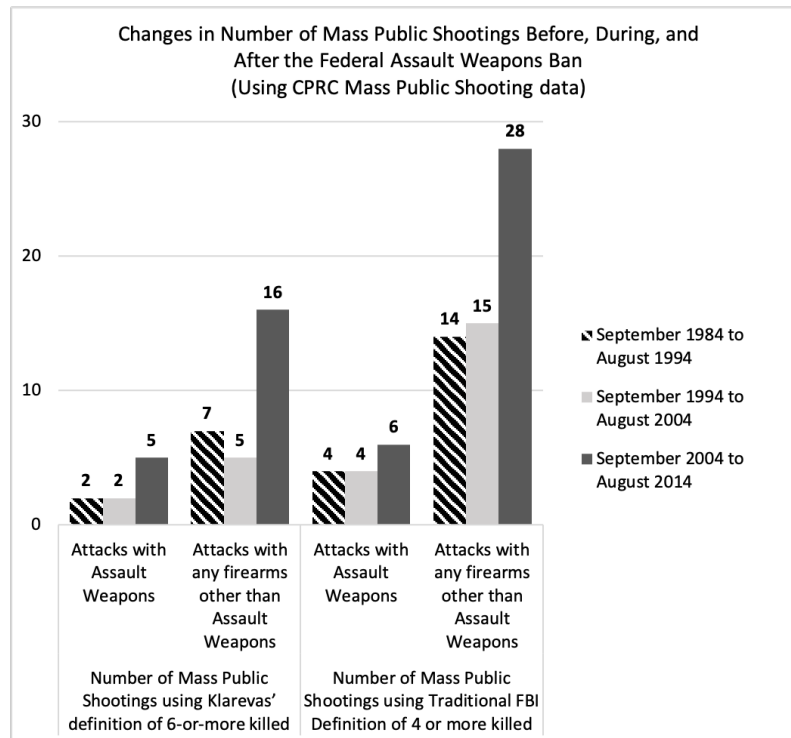
⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

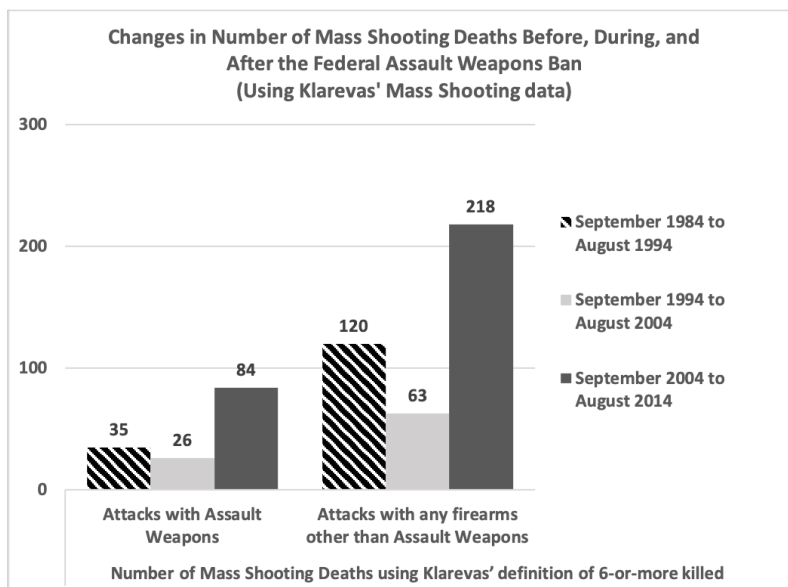


CPRC's data indicates largely the same, differing by zero to three attacks between periods.

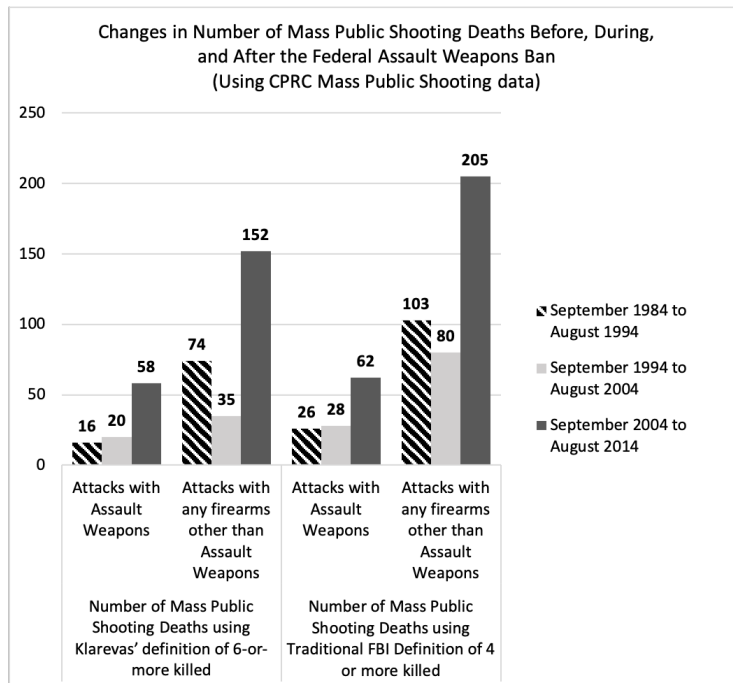
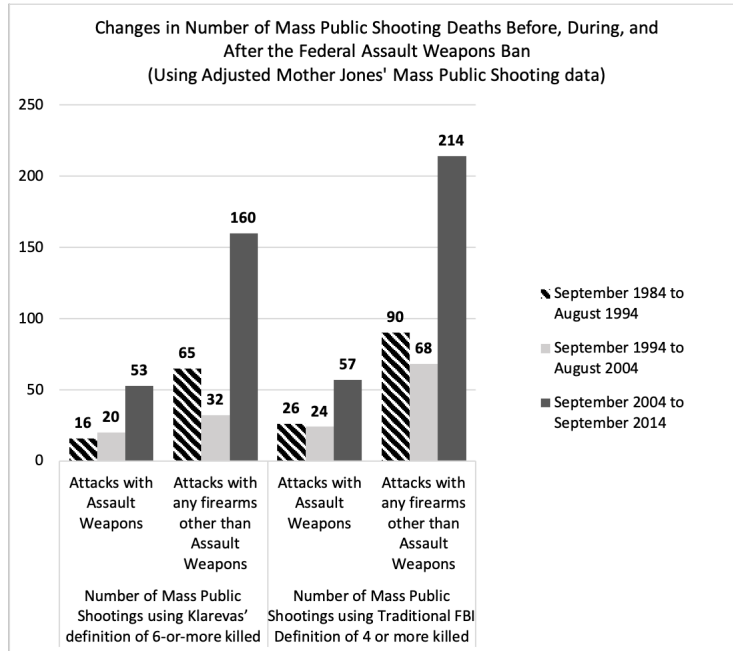


None of these gaps is large enough to show the federal ban affected the frequency of attacks. And counting attacks with *any* firearm, the disparities Klarevas finds between the pre- and mid-ban periods vanish or shrink to one or two attacks, statistically insignificant differences.

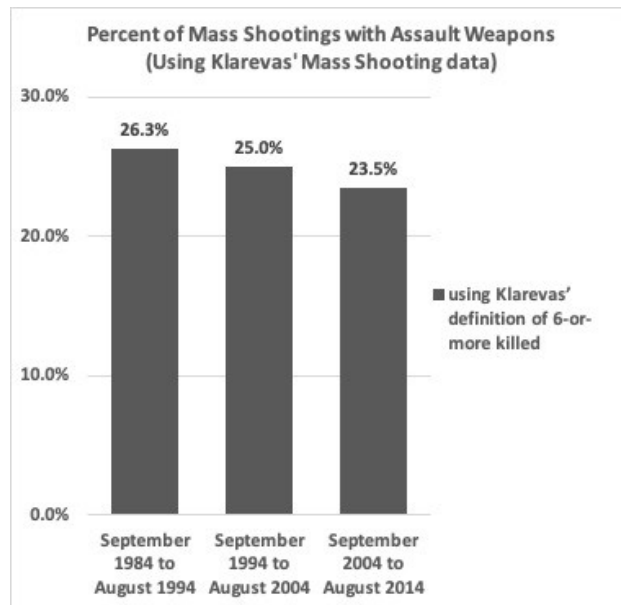
Fatality figures point the same way. Although Klarevas's numbers imply that mass-shooting deaths fell during the federal ban, the percentage drop was far larger for attacks *without* assault weapons.

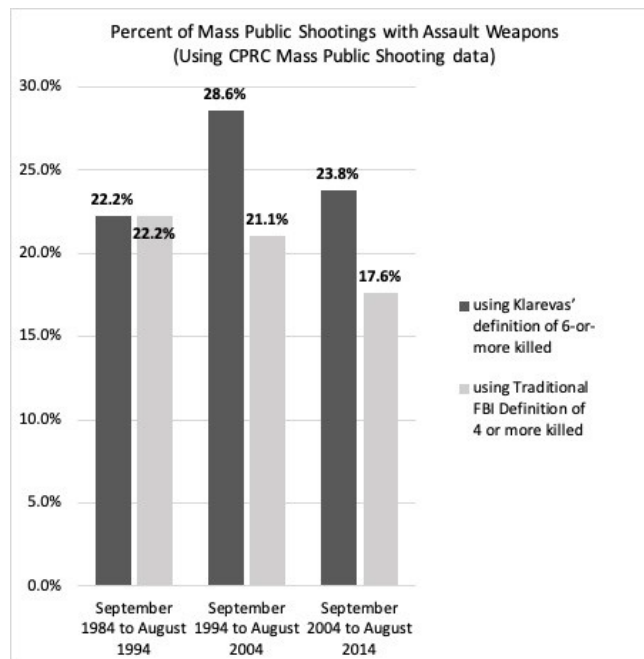
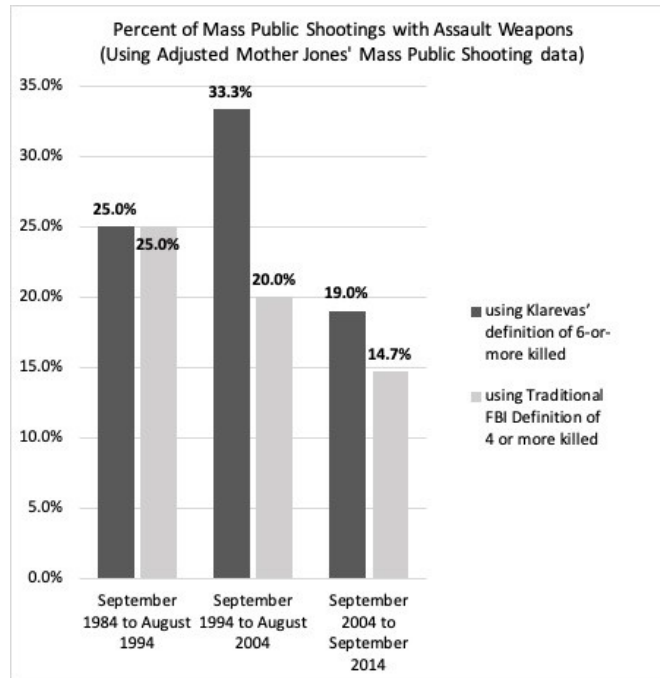


Deaths in assault-weapon attacks fell from thirty-five to twenty-six (a 26% decrease), while those in attacks using other firearms fell from 120 to sixty-three (47.5%). The Mother Jones data showing assault-weapon-attacks with four-plus deaths shows deaths during the federal ban fell by just two from the preceding decade (0.2 per year), while those with six-plus deaths attacks actually *rose*.



Contrary to what gun-control advocates would predict, the federal ban decade did not see the lowest share of deaths from assault weapons, the decade *after* did. This pattern persists under both definitions of mass-murder and for absolute numbers and deaths shares alike.





Studies purporting to link firearm laws to fewer firearm fatalities fare no better. One was replete with flaws. It relied on purely cross-sectional data unable to account for pre-existing state-level differences and failed to isolate the impact of assault-weapon laws.⁵⁵ The study itself conceded it “could not determine cause-and-effect relationships, further studies are necessary to define the nature of this association.”⁵⁶ A second study, analyzing state firearm laws against homicide and suicide rates across all states over 26 years, found that assault-weapon bans were not consistently associated with reductions of either.⁵⁷

Experts agree. In the largest survey of criminologists, economists, and public health researchers who have published peer-reviewed empirical work on gun control, criminologists and economists were skeptical of gun control, while public-health academics were more supportive.⁵⁸ On a one-to-ten scale of effectiveness at reducing murder rates, criminologists rated assault-weapon bans 1.71, economists 2.25, and public health researchers 3.88. Asked about effectiveness at reducing mass public shootings, the three groups gave 2.92, 3.00, and 5.68, respectively.⁵⁹ The same experts rated a ban on magazines holding more than ten rounds no higher, scoring it 1.81, 1.75, and

⁵⁵ Fleegler et al. *Firearm Legislation and Firearm-Related Fatalities in the United States*, 173 JAMA Intern. Med. 732, 739 (2013).

⁵⁶ *Id.* at 740

⁵⁷ Siegel, Pahn, Xuan, Fleegler, and Hemenway, *The Impact of State Firearm Laws on Homicide and Suicide Deaths in the USA, 1991–2016: A Panel Study*, 34 J. Gen. Intern. Med. 2021 (2019).

⁵⁸ Berg et al., *Expert Views on Gun Laws*, 42 Regulation 40 (Winter 2019-2020).

⁵⁹ *Id.*

3.96 for reducing murder, and 2.50, 2.56, and 5.88 for reducing mass public shootings, respectively.⁶⁰ On the one-to-ten scale, a rating of 5.5 is the midway point between completely ineffective and extremely effective.

Two systematic reviews are in accord. A 2005 review in the *American Journal of Preventive Medicine* and a RAND Corporation assessment each found no significant evidence that assault-weapon restrictions reduce violent crime, homicide, or mass shootings.⁶¹

Because assault-weapons bans focus largely on rifles, any claim they meaningfully reduce mass-shooting fatalities is difficult to sustain. On this record, there is no credible evidence that assault-weapons bans meaningfully reduce gun homicides and have no discernable crime-reduction effect.

C. California Extinguishes Peace Officers' Right to These Arms Upon Retirement

Peace officers possess a heightened need for these arms, yet California burdens them more heavily than any other state. Officers and their families are targets for reprisal and politically motivated retaliation, risks that do not end with a shift or upon retirement. Their need for self-defense persists, but California treats officers' rights as revocable, expirable privileges. Officers hold the same Second Amendment rights as

⁶⁰ *Id.* at 44-45.

⁶¹ Robert A. Hahn et al., *Firearms Laws and the Reduction of Violence: A Systematic Review*, 28 *Am. J. Preventive Med.* 40 (2005); Rosanna Smart et al., *The Science of Gun Policy: A Critical Synthesis of Research Evidence on the Effects of Gun Policies in the United States*, RAND Corp. 131 (2023), https://www.rand.org/content/dam/rand/pubs/research_reports/RRA200/RRA243-4/RAND_RRA243-4.pdf.

any other citizen. Off duty and in retirement they are private citizens. The arms the State extinguishes are the same common arms every citizen is entitled to keep. It is only their heightened exposure to reprisal that magnifies the burden the deprivation imposes on officers.

Even during employment, that privilege is constrained. An officer may possess an assault weapon only while employed for duty by a qualifying agency, and only upon the agency head's written certification of the specific weapon, which the officer must then register.⁶² The agency head thus holds personal discretion over an officer's exercise of a constitutional right, and off-duty possession is confined to limited enumerated locations absent a Department of Justice permit.⁶³ Because ownership depends entirely on current employment and agency-head authorization, it collapses the moment employment ends.⁶⁴

What follows is stark. Within ninety days, a departing officer must render the weapon permanently inoperable, sell it to a licensed dealer, obtain a permit, or remove it from the State.⁶⁵ Registered assault weapons may not be transferred to anyone in California except licensed dealers, and weapons relinquished to law-enforcement agencies are forfeited to destruction.⁶⁶ A retiring officer must therefore disable, sell, surrender, or exile the very rifle he or she lawfully acquired, registered, and carried for years in

⁶² Cal. Penal Code §§ 30625, 30630(a), (b)(1)–(2).

⁶³ Cal. Penal Code §§ 30945(a)–(g), 31000(a)–(c).

⁶⁴ Cal. Penal Code § 30630(a), (b)(1)–(2).

⁶⁵ Cal. Penal Code § 30915(a)–(d); *see id.* § 30920(a)–(b) (same four options wherever lawful possession ends).

⁶⁶ Cal. Penal Code §§ 30910, 30605.

public service. California law forbids simply keeping it at home, standing alone in this respect. Federal law grants qualified, active and honorably-separated officers a right to carry concealed nationwide, but that is only a carry right and leaves AR-15 bans intact.⁶⁷ And even among states banning these arms, California's is an outlier. The Ordinance itself exempts both active and qualified retired officers.

This contradiction exposes the ban's central irrationality. If even trained, vetted, and background-checked officers cannot be trusted to keep these arms in retirement, the prohibition cannot rest on the dangerousness of the arm. If these arms are safe enough for an officer to carry for years in public service, there is no principled basis to strip them from that officer, or from any other law-abiding citizen, merely by virtue of retirement. Thus, the Ordinance's own inconsistencies undermine the contention these firearms are inherently too dangerous to be privately owned.

II. Feature-Based Bans Are Designed to Evade the Second Amendment and thus Fail Bruen

Amici's members administer these laws and see the mechanics that those defending them obscure. A legislature that cannot ban a common firearm outright achieves a de facto ban by forbidding ordinary, commercially available features of commonly owned arms. The Ordinance bans commonly owned rifles by exactly this method, and California broadened that approach to include standard magazine capacities and most modern handguns. *Amici* therefore urge the Court to

⁶⁷ 18 U.S.C. §§ 926B(a), (b)(1)–(2), 926C(a); *Carey v. Throwe*, 957 F.3d 468, 480 (4th Cir. 2020).

confront the tactic itself. An opinion addressing only an enumerated-weapons ban would free States to continue burdening the Second Amendment by other means, whether feature prohibitions or overbroad sensitive-places laws, breeding further litigation.⁶⁸ Holding this evasion unconstitutional is necessary to preserving the right. The operative law before the Court bans commonly owned rifles by listing both prohibited features and prohibited models. California is the paradigm case of where this method leads, having extended the same feature-based logic from rifles to standard magazines and to nearly all modern handguns.

A. California’s Assault-Weapon and Unsafe Handgun Act Regimes Illustrate Feature-Based Evasion

The Ordinance prohibits any semi-automatic firearm that accepts a detachable magazine and bears even one feature from a list of ordinary ones, such as pistol grips, folding or telescoping stocks, flash suppressors, and barrel shrouds. Cook County reinforces that prohibition with a list of banned models, including AR-15s, and forbids their possession within the County.

California takes the same strategy a step further, defining assault weapons to include any semi-automatic centerfire rifle that lacks a fixed magazine but bears any one listed feature, and defining a “fixed magazine” as one that “cannot be removed without disassembly of the firearm action.”⁶⁹ An owner may thus keep a detachable magazine only by stripping the

⁶⁸ *See, e.g., Woford*, 146 S. Ct. 2032.

⁶⁹ Cal. Penal Code § 30515(a)(1), (b).

rifle of every feature or keeping the features only with a non-detachable magazine, thereby regulatorily converting a common semi-automatic into an effective ten-round muzzle loader.⁷⁰ Registration cutoffs closed the exits. Owners of feature-equipped rifles had a single window expiring July 1, 2018, and possession without registration is a crime.⁷¹

California extended this to modern handguns through the UHA, requiring every newly-sold handgun to bear chamber load indicators, magazine disconnect mechanisms, and microstamping capabilities, though “[n]o handgun available in the world has all three of these features.”⁷² The microstamping mandate, partially and temporarily rescinded after *Boland*, required purported safety features neither technologically nor commercially feasible, ensuring “not a single new semiautomatic handgun has been approved for sale in California” since May 2013.⁷³ “The government cannot credibly argue that handguns without CLI, MDM, and microstamping features pose unacceptable public safety risks when virtually all of the handguns available on the Roster and sold in California today lack those features.”⁷⁴ As PORAC’s President Brian Marvel noted, nearly all California peace officers are issued such “unsafe” handguns for duty, when the stakes are highest.⁷⁵ While its handgun ban has languished in the Ninth Circuit since March 27, 2023, California has gone even further

⁷⁰ *Id.*

⁷¹ Cal. Penal Code §§ 30900(b)(1), 30680(c).

⁷² *Boland*, 662 F. Supp. 3d at 1080.

⁷³ *Id.*

⁷⁴ *Id.* at 1091.

⁷⁵ *Id.*

by banning Glock-platformed handguns, the most popular nationally.⁷⁶

B. Feature-Based Bans Fail Bruen’s How and Why Analysis

A feature-based ban is, in operation, a ban on every arm that bears the forbidden feature. Because those arms remain in common use, *Heller* resolves this case without a searching historical inquiry, and the analysis that follows applies only if the Court finds it necessary to proceed to *Bruen*’s how-and-why test. *Bruen* requires the government to justify a modern regulation with a historical analogue that imposes a comparable burden on armed self-defense for a comparable reason, namely, “how and why the regulations burden a law-abiding citizen’s right to armed self-defense.”⁷⁷ This Court identified three inquiries, namely, how many jurisdictions adopted the rule, how well-accepted it was, and whether it is “relevantly similar” to the modern law.⁷⁸ The first two resolve for *amici* at the threshold. No jurisdiction historically banned common arms, so no such rule was ever adopted, let alone accepted. As one district court found, “the State has not identified any law, anywhere, at any time, between 1791 and 1868 that prohibited simple possession of a gun or its magazine.”⁷⁹ The analysis therefore turns on the third inquiry, and feature-based bans fail.

⁷⁶ Cal. Penal Code § 27595 (added by Stats. 2025, ch. 572, § 5) (effective Jan. 1, 2026).

⁷⁷ *Bruen*, 597 U.S. at 29.

⁷⁸ *Wolford*, 146 S. Ct. at 2044.

⁷⁹ *Duncan v. Bonta*, 656 F.Supp.3d 1206, 1242 (S.D. Cal. 2023), *rev'd and remanded* 133 F.4th 852 (9th Cir. 2025).

The purported “why” of reducing firearm misuse is a concern that has “persist[ed] since the 18th century,” one the Founders could have addressed by banning common arms but did not.⁸⁰ Because the problem is longstanding, *Bruen*’s “more nuanced approach” for unprecedented or technologically novel problems does not apply, and the absence of a “distinctly similar historical regulation” strongly indicates the modern ban is unconstitutional.⁸¹ *Bruen* confirmed the point, explaining that the historical analogies in *Heller*-type arms-ban cases are “relatively simple to draw,” and that only cases “implicating unprecedented societal concerns or dramatic technological changes may require a more nuanced approach.”⁸²

The “how” confirms the point. The Ordinance, like California’s ban, effectively imposes a ban on a class of arms Americans overwhelmingly choose for lawful purposes, precisely the “prohibition of an entire class of arms” *Heller* found no tradition supports.⁸³ Applying that principle, the Third Circuit rejected proffered analogues. Founding-era gunpowder-storage laws served a different, fire-safety “why,” and later restrictions on Bowie knives, slungshots, and pistols reached only carrying or sale rather than possession, and did not touch arms in common use.⁸⁴ Nor may a

⁸⁰ *New Jersey Rifle*, 183 F.4th at 246.

⁸¹ *Id.* at 258.

⁸² *Bruen*, 597 U.S. at 27.

⁸³ *Heller*, 554 U.S. at 628.

⁸⁴ *New Jersey Rifle*, 183 F.4th at 244; *Boland* likewise found no analogue for chamber load indicators, magazine disconnects, and microstamping requirements, holding they impose a “substantial burden,” keeping “virtually all new, state-of-the-art handguns” from law-abiding citizens. *Boland*, 662 F. Supp. 3d at 1088.

State escape the analysis by defining the banned class through features, because those arms remain in common use and the label makes it no less a ban.⁸⁵ The Seventh Circuit erred in departing from that framework. It conceded AR-15s are “both widely legal and bought by many ordinary consumers,” yet “decline[d] to base [its] assessment of the constitutionality of [the Ordinance] on numbers alone.”⁸⁶ This reasoning cannot be reconciled with *Heller*’s common-use touchstone.

Moreover, this Court has confirmed the Nation’s tradition targets dangerous persons, not arms themselves. *United States v. Rahimi* demonstrates the lack of support for these bans.⁸⁷ *Rahimi* held only that an individual whom a court has found to pose a credible threat to the physical safety of another may be temporarily disarmed, emphasizing that the challenged statute “does not broadly restrict arms use by the public generally.”⁸⁸ *Amici* support that reasoning. The Nation’s tradition, the Court explained, extends to the disarmament of dangerous persons, not to the prohibition of the common arms responsible citizens overwhelmingly choose. *Rahimi*’s “principles” language, on which the State and the Seventh Circuit rely, offers no alternative support. A modern law need not be a “dead ringer” or a “historical twin,” but it “must comport with the principles underlying the Second Amendment.”⁸⁹ *Rahimi* reaffirmed that the Amendment extends to all bearable arms, with only “dang-

⁸⁵ *Id.* at 238.

⁸⁶ *Barnett*, 180 F.4th at 1054

⁸⁷ 602 U.S. 680 (2024).

⁸⁸ *Id.* at 698.

⁸⁹ *Id.* at 692.

erous and unusual” weapons falling outside its protection. A ban on arms in common use inverts that tradition, disarming the law-abiding rather than the dangerous.

C. The Governing Principle Applies to All Feature-Based Bans

Amici ask the Court to invalidate both the Ordinance’s enumerated-weapons prohibition and the growing practice of eliminating access to protected firearms through feature prohibitions. The Second Amendment is not “a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.”⁹⁰ A State should not accomplish through hardware regulations what it could not accomplish by direct proscriptions. Because *Bruen* measures regulations by their burden, feature restrictions rendering prohibited a firearm in common circulation demand the same historical justification as express bans, which no state has supplied.⁹¹ *Heller* forecloses such evasions. A law that renders a firearm inoperable “makes it impossible for citizens to use [it] for the core lawful purpose of self-defense and is hence unconstitutional,” and any regulation that “under the pretence of regulating, amounts to a destruction of the right, or which requires arms to be so borne as to render them wholly useless for the purpose of defence, would be clearly unconstitutional.”⁹² A right a State can nullify

⁹⁰ *McDonald v. City of Chi.*, 561 U.S. 742, 781 (2010); *Bruen*, 597 U.S. at 6.

⁹¹ *Bruen*, 597 U.S. at 25.

⁹² *Heller*, 554 U.S. at 629-30 (citation and internal quotation marks omitted).

through incremental feature mandates is, in this Court's words, "no constitutional guarantee at all."⁹³

The Court should therefore reverse and clarify that lower courts must scrutinize a prohibition's operation, not its label, so a functional or incremental restriction rendering a common arm inoperable is as invalid as a direct ban. California's regimes illustrate the need for a clear rule. *Amici* do not ask the Court to adjudicate the UHA, which is not before it, but to decide this case on a principle the Ninth Circuit can apply, namely that a feature-based ban of arms in common use cannot escape scrutiny.

III. California Prioritizes Restrictions on Law-Abiding Citizens Over Enforcement Against Violent Criminals

California requires its peace officers to enforce an ever-growing body of firearm laws while abandoning the enforcement that would actually save lives, confirming these bans target the law-abiding, not the violent. The State legislates against constitutional rights so readily that the Ninth Circuit recently held its ban on truthful advertising of lawful youth shooting sports likely unconstitutional under the First Amendment.⁹⁴ California's favored restrictions do little against crime because they regulate the lawful retail market and cosmetic features, not the illegal channels through which criminals actually arm themselves. This bears directly on *Bruen*'s "why." The interest the State advances is a reduction in firearm-related violence. However, it pursues that interest by burdening the law-abiding while declining to enforce

⁹³ *Id.* at 635.

⁹⁴ *Junior Sports Mags. Inc. v. Bonta*, 80 F.4th 1109 (9th Cir. 2023).

the laws that reach criminal misuse. A regulation so poorly matched to its asserted justification cannot supply the comparable “why” the historical inquiry demands.

Meanwhile, the State exhibits no equivalent zeal for keeping firearms from prohibited persons. It made once-mandatory firearm enhancements discretionary,⁹⁵ and directed courts to dismiss enhancements “in the furtherance of justice” and give “great weight” to circumstances favoring dismissal.⁹⁶ It opened parole and resentencing pathways for certain individuals serving life without parole for serious, often firearm-related, offenses.⁹⁷ Indeed, the recent Glock ban was prompted by a Sacramento mass shooting committed by a violent felon released from prison six years early.⁹⁸ Nevertheless, California tolerates widespread non-enforcement of laws already barring felons from possessing any firearm. Its Armed and Prohibited Persons System carries a backlog of approximately 24,000 individuals known to possess firearms unlawfully.⁹⁹ The cost is not hypothetical. On June 14, 2022, two El Monte police officers were murdered by a

⁹⁵ S.B. 620, 2017-2018 Reg. Sess. (Cal. 2017); 2017 Cal. Stat. ch. 682 (S.B. 620).

⁹⁶ See S.B. 81, 2021-2022 Reg. Sess. (Cal. 2021); 2021 Cal. Stat. ch. 721.

⁹⁷ S.B. 672, 2025-2026 Reg. Sess. (Cal. 2025); S.B. 94, 2023-2024 Reg. Sess. (Cal. 2023).

⁹⁸ Konstadinos Moros, *How California Government Created the Pretense For the GLOCK Ban That’s About to Become Law*, Shooting News Weekly (Sept. 16, 2025), <https://www.shootingnewsweekly.com/gun-control/how-california-government-created-the-pretense-for-the-glock-ban-thats-about-to-become-law/>.

⁹⁹ Nigel Duara & Lynn Ia, *Outgunned*, CalMatters, <https://calmatters.org/series/outgunned/> (last visited Aug. 22, 2026.).

gang member who should have been imprisoned on a prior firearm-possession arrest but went free when the district attorney declined to enforce prohibited-persons laws. A government serious about gun violence prosecutes armed felons. It does not disarm law-abiding citizens, including retired peace officers.

CONCLUSION

The judgments of the respective Courts of Appeals below should be reversed. The banned rifles are in common use and are protected, and the bans do not advance the interests the State asserts. In reversing, the Court should hold that the Second Amendment measures prohibition by operation rather than label, so a feature-based ban of a class of arms in common use is as invalid as a ban by name.

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