

Nos. 25-238, 25-566

IN THE

Supreme Court of the United States

CUTBERTO VIRAMONTES, *et al.*,
Petitioners,

v.

COOK COUNTY, ILLINOIS, *et al.*

EDDIE GRANT, JR., *et al.*,
Petitioners,

v.

RONNELL HIGGINS, IN HIS OFFICIAL CAPACITY
AS COMMISSIONER OF THE CONNECTICUT
DEPARTMENT OF EMERGENCY SERVICES AND
PUBLIC PROTECTION, *et al.*

**ON WRITS OF CERTIORARI TO THE UNITED STATES
COURTS OF APPEALS FOR THE SEVENTH AND SECOND
CIRCUITS**

**BRIEF FOR THE
CONNECTICUT RESPONDENTS**

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QUESTION PRESENTED

Whether the Second and Fourteenth Amendments guarantee the right to possess AR-15 platform and similar semiautomatic rifles.

PARTIES TO THE PROCEEDING

Petitioners Eddie Grant, Jr., Jennifer Hamilton, Michael Stiefel, Connecticut Citizens Defense League, Inc., and Second Amendment Foundation, Inc., were plaintiffs before the district court and appellants in the court of appeals.

Respondent Ronell Higgins, in his official capacity as Commissioner of the Connecticut Department of Emergency Services and Public Protection, is substituted as a defendant in this case for James Rovella, who previously held that position and was defendant in the district court and appellee in the court of appeals.

Respondents John P. Doyle, Jr., in his official capacity as State's Attorney for the New Haven Judicial District, Sharmese L. Walcott, in her official capacity as State's Attorney for the Hartford Judicial District, and Paul J. Narducci, in his official capacity as State's Attorney for the New London Judicial District, were defendants before the district court and appellees in the court of appeals.

Additional defendants in the district court were Edward Lamont, Jr., in his official capacity as Governor of Connecticut, Patrick Griffin, in his official capacity as Chief State's Attorney, Margaret E. Kelley, in her official capacity as State's Attorney for the Ansonia/Milford Judicial District, David R. Applegate, in his official capacity as State's Attorney for the Danbury Judicial District, Joseph T. Corradino, in his official capacity as State's Attorney for the Fairfield Judicial District, David R. Shannon, in his official capacity as State's Attorney for the Litchfield Judicial District, Michael A. Gailor, in his official capacity as State's Attorney for the Middlesex Judicial District, Christian

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FOR THE SEVENTH AND SECOND CIRCUITS

**BRIEF FOR THE
CONNECTICUT RESPONDENTS**

INTRODUCTION

On December 14, 2012, a lone gunman armed with an AR-15-style rifle murdered twenty first-graders and six educators inside Sandy Hook Elementary School in Newtown, Connecticut. It was the deadliest elementary school shooting in American history, and the massacre was committed in less than five minutes—before police could even respond.

Connecticut’s elected representatives acted swiftly following this tragedy. Within months, Connecticut enacted a bipartisan law that aimed to prevent a massacre like Sandy Hook from ever happening again within the State. A key provision of that law prohibited the very AR-15-style weapons that made the Sandy Hook mass shooting so deadly.

That AR-15 ban is “consistent with the Nation’s historical tradition of firearm regulation.” *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24 (2022). From fourteenth-century England to twenty-first century America, governments have restricted weapons because of their unusually dangerous properties. And although the weapons have evolved—from the launcegay to the Bowie knife to the Tommy gun—the rationale behind those laws has not. In each instance, legislatures have determined that a weapon is atypically lethal relative to its peers—and so have acted to prevent that weapon’s use.

In making that same judgment as to AR-15s, Connecticut’s law closely matches its “historical precursors.” *United States v. Rahimi*, 602 U.S. 680, 692 (2024). Among commercially available weapons, the AR-15 is distinctively capable of swiftly inflicting fatal injuries on a scale similar to its military counterpart, the M-16. That capacity for lethality comes from a mix of features that permit even an unskilled gunman to rapidly fire high-velocity bullets that leave catastrophic wounds. Tragically, real-world experience confirms the AR-15’s singular dangerousness: From Sandy Hook to Las Vegas to Parkland to Uvalde, shooters have used the AR-15 or similar weapons in the vast majority of mass-casualty shootings this century. So too, AR-15s have been used to kill law-enforcement officials at a sharply disproportionate

rate—including in Bristol, Connecticut, where two officers were murdered by a gunman whose chosen weapon for the ambush was an AR-15.

Petitioners’ arguments to invalidate Connecticut’s AR-15 ban run contrary to history, precedent, and logic. According to petitioners, the Second Amendment categorically disables regulation of weapons as soon as those weapons become commonly used. That rule would be a surprise to the lawmakers of the 1300s through the 1900s, who often took action precisely *because* particular weapons became so popular as to pose acute social problems. And petitioners’ theory represents a “flawed” approach to constitutional doctrine because it requires legislatures to “maximally exercise[] their power to regulate” or forever lose that regulatory authority. *Rahimi*, 602 U.S. at 739-40 (Barrett, J., concurring). Indeed, the AR-15’s history itself vividly illustrates the problems with petitioners’ rule. On petitioners’ account, the 1994 Congress had authority to ban AR-15s before they were commonly owned, but the 2004 Congress forever disabled future regulation—at both the federal and state levels—by letting that ban lapse. The Second Amendment does not create that one-way ratchet.

In short, the Constitution does not prevent Connecticut from banning the very weapons that have wrought incalculable harm and unimaginable loss on the people of that State. This Court should affirm the judgment below.

STATEMENT OF THE CASE

A. Factual Background

1. On December 14, 2012, a young man armed with a lawfully purchased AR-15-style semiautomatic rifle called the Bushmaster Model XM15-E2S shot his way

into Sandy Hook Elementary School in Newtown, Connecticut. The amateur shooter fired 154 rounds in under five minutes, killing 20 first-graders and six adults. The shooter then turned the weapon on himself.

Police responded immediately but were too late to intervene. Upon entering the school, police encountered carnage so incomprehensible that one sergeant recalled being unable to count the number of dead because “[his] mind would not count beyond the low teens.” Silvia Foster-Frau et al., *Terror on Repeat*, Wash. Post (Nov. 16, 2023). A state trooper mistook one of the classrooms for an art room because he thought he saw red paint on the walls, until he “realized that the red paint was actually blood.” *See id.* Police found the shooter’s rifle near his body and the bodies of his victims.

2. Within months, the Connecticut legislature responded to the mass shooting by enacting a bipartisan law that expanded upon Connecticut’s longstanding firearms restrictions and banned large-capacity magazines.

As relevant here, the law made two significant changes to Connecticut’s preexisting ban on the sale, transfer, and possession of “assault weapons.” First, it added the AR-15 and Bushmaster Model XM15, among other firearms, to the list of banned weapons. 2013 Conn. Pub. Acts 13-3 § 25(1)(B). Second, to prevent manufacturers from evading the ban by renaming their weapons, the law defined prohibited “assault weapons” to include any semiautomatic, centerfire rifle capable of accepting a detachable magazine with at least one of the following features: (1) a folding or telescoping stock, (2) any grip that allows the shooter to

hold the weapon so that the trigger-finger hand is positioned below any portion of the firing action, (3) a forward pistol grip, (4) a flash suppressor, or (5) a grenade or flare launcher. *Id.* § 25(1)(E)(i); *see* Conn. Gen. Stat. § 53-202a(1)(E)(i). The statute permits owners of existing weapons to obtain “certificate[s] of possession” that allow them to continue to lawfully possess their firearms. Conn. Gen. Stat. §§ 53-202c(c)-(f), 53-202d.

B. Proceedings Below

Petitioners in *Grant v. Higgins*, No. 25-566, are nonprofit organizations and individuals who want to own AR-15s or other assault weapons banned in Connecticut. Petitioners sued various Connecticut officials and sought a preliminary injunction against enforcement of Connecticut’s assault-weapons restrictions.

The district court denied a preliminary injunction. *Grant* Pet. App. 74a-92a. The court explained that Connecticut’s law is “consistent with the nation’s history and tradition of firearm regulation” because it targets “new and dangerous characteristics of developing weapons technology.” *Id.* at 90a.

The Second Circuit affirmed. *Grant* Pet. App. 1a-66a. The court first rejected petitioners’ argument that “the Second Amendment *necessarily* protects *all* weapons in common use.” *Id.* at 30a. The court then examined the “historical tradition” of firearms regulation and determined that it “encompasses those arms that legislators determined were *unusually dangerous* because of their characteristics.” *Id.* at 31a; *see id.* at 67a-73a (Nathan, J., concurring). The court explained that Connecticut’s law was “‘relevantly similar’ ... to historical antecedents that imposed targeted restrictions on unusually dangerous weapons,” while

still “preserv[ing] alternative avenues for the legal possession of less inherently dangerous arms.” *Id.* at 37a. Thus, the court concluded that the Second Amendment does not prevent Connecticut from “implement[ing] targeted regulations designed to protect residents and their children from experiencing tragedies like the one at Sandy Hook Elementary School.” *Id.* at 61a.

SUMMARY OF ARGUMENT

The Second Amendment does not preclude Connecticut from banning an unusually dangerous weapon that has inflicted incalculable harm in the State.

I. Connecticut’s ban on AR-15s falls within a long historical tradition of governments regulating weapons unusually capable of causing death and destruction.

A. For centuries, legislatures have made choices similar to Connecticut’s, regulating weapons that pose unusual dangers to the community. The history runs in an unbroken line from medieval England to the Founding to the Reconstruction era to the twentieth century. It begins with bans on the medieval launcegay, an “immensely popular” weapon that was unusually “responsible for fatalities.” It continues with English bans on crossbows, pocket dagges, and steelets; colonial-era bans on trap guns and other weapons; and nineteenth-century restrictions on Bowie knives and other unusually dangerous arms. That same concern with lethality later led to prohibitions on slungshots and Tommy guns.

B. Like these other weapons that have been restricted throughout history, AR-15s are unusually dangerous compared to their contemporary peers. AR-

15s share the same basic structure and operation as their military counterpart, the M-16, and are designed to optimize sustained, rapid, accurate, and lethal fire at long distances. No other commercially available weapon allows a shooter to inflict catastrophic injuries on as many victims as quickly as the AR-15. And the AR-15's technical capabilities are tragically borne out in real-world experience. AR-15s are disproportionately used in mass shootings: Gunmen have wielded AR-15s in the deadliest mass shootings of the twenty-first century, including in Newtown, Connecticut; Uvalde, Texas; and Las Vegas, Nevada. And AR-15s are distinctively dangerous to law enforcement: They can penetrate police body armor and helmets, and they have been used in deadly attacks on police officers and other first responders.

C. In all other respects, Connecticut's regulation of AR-15s is relevantly similar to its precursors. The State's ban on possession of AR-15-style weapons matches the scope of historical bans of launchers, Bowie knives, Tommy guns, and other unusually dangerous weapons. And while other precursor laws regulated carry and not possession, this Court has previously drawn analogies between possession and carry bans. Dramatic technological changes—which allow a single amateur shooter to rapidly kill dozens of individuals—further support the link between Connecticut's law and its predecessors.

II. Petitioners' contrary argument—that legislatures are categorically disabled from regulating weaponry in “common use”—defies history, precedent, and logic.

A. No historical source supports petitioners' common-use-only test. On the contrary, English and

American history is replete with examples of governments banning excessively lethal weapons precisely because they had become so popular that they posed immediate dangers to society. The launcegay and Bowie knife, for example, were both in common use when restricted. And none of the nineteenth-century decisions discussing weapons restrictions held that legislatures lost regulatory authority once a weapon was in common use. Instead, the historical record supports the notion that States have authority to regulate weapons that pose unusual danger to their communities—even if those weapons are lawful, and even commonly owned, elsewhere in the country.

B. The common-use-only approach also conflicts with this Court’s precedents. The Court has made clear that the Second Amendment protects stun guns but not fully automatic machineguns, even though those weapons are owned at comparable rates. It follows that something other than commonality separates stun guns and machineguns—specifically, that machineguns are unusually dangerous.

C. Finally, the common-use-only approach represents an illogical and unworkable approach to constitutional law. Legislatures do not always maximally exercise their regulatory power, and this Court has repeatedly rejected a use-it-or-lose-it view of legislative authority. Indeed, there is no other area of constitutional law where the choices of market actors permanently disable legislatures from passing laws to protect their communities. And the common-use-only approach is neither administrable nor capable of principled application. For example, it suggests that AR-15s could permissibly be regulated in 1994, when Congress enacted a federal ban—but that Congress’s choice not to extend that ban in 2004 forever prevented future

legislatures from responding to the weapon's unusual lethality. That single legislative choice does not forever determine the meaning of the Second Amendment.

ARGUMENT

I. Connecticut's AR-15 Ban Falls Within A Historical Tradition Of Regulating Unusually Dangerous Weapons.

The Second Amendment provides that “the right of the people to keep and bear Arms, shall not be infringed.” Because the Amendment “codified a right ‘inherited from our English ancestors,’” *District of Columbia v. Heller*, 554 U.S. 570, 592, 599 (2008), this Court has adopted a “historical approach” to its interpretation, *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24 (2022). To sustain a law under this inquiry, the government must “justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.” *Id.*

Connecticut’s ban is consistent with nearly eight centuries of tradition. From the 1300s to the present, English and American jurisdictions have banned weapons because they posed unusual dangers relative to other weapons of the era. And the AR-15 is the signal example of an unusually dangerous weapon today given its unprecedented lethality and frequent use in mass-casualty events and law-enforcement killings. Accordingly, “‘historical precedent’ from before, during, and even after the founding evinces a comparable tradition of regulation.” *Bruen*, 597 U.S. at 27 (quoting *Heller*, 554 U.S. at 631).

A. The Second Amendment permits States to regulate unusually dangerous weapons.

As numerous courts of appeals have concluded, a wealth of “historical regulations impos[ed] targeted restrictions on weapons whose danger and lethality stand out.” *Barnett v. Raoul*, 180 F.4th 1035, 1047 (7th Cir. 2026); see *Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38, 44-52 (1st Cir. 2024); *Bianchi v. Brown*, 111 F.4th 438, 464-72 (4th Cir. 2024) (en banc); *Duncan v. Bonta*, 133 F.4th 852, 874-84 (9th Cir. 2025) (en banc); *Hanson v. District of Columbia*, 120 F.4th 223, 234-40 (D.C. Cir. 2024) (per curiam); *Grant* Pet. App. 51a-61a. Over the centuries, the march of technological advancement has increased the lethality of weapons, and governments have consistently responded by outlawing weapons with characteristics that make them more lethal than their contemporary peers. Those regulations originated in medieval England, traveled to America before the Founding, and have persisted for the entirety of the American experiment.

1. English laws regulated unusually dangerous weapons.

From at least the fourteenth century until the Founding era, English laws prohibited the possession of unusually dangerous weapons. That “long, unbroken line of common-law precedent stretching from Bracton to Blackstone” illuminates the Second Amendment’s scope. *Bruen*, 597 U.S. at 35.

a. England’s regulation of unusually dangerous weapons “trace[s] [its] origin to the Statute of Northampton.” *United States v. Rahimi*, 602 U.S. 680, 697 (2024). The Statute provided that “no man great nor small” may “bring ... force in affray of the peace, nor to

go nor ride armed by night nor by day.” Statute of Northampton, 2 Edw. 3, c. 3 (1328). The Statute codified the common-law crime of affray, or “terrifying the good people of the land.” 4 William Blackstone, *Commentaries on the Laws of England* 148-49 (4th ed. 1770). Although affrays often involved “fighting ... in a public place,” a person could also cause an affray without “actual Violence” by “arm[ing] himself with dangerous and unusual weapons” as would “naturally cause a Terror to the people.” John Dunlap, *The New-York Justice* 8 (1815); 1 William Hawkins, *A Treatise of the Pleas of the Crown* 135 (1716). Thus, the Statute was understood to prohibit weapons responsible for “the great peril and continual fear and danger of the King’s most loving subjects.” Crossbows Act of 1541, 33 Hen. 8 c. 6 (1542). And the Statute prohibited possessing such weapons even if a person “d[id] not break the peace.” *Chune v. Piott* (1615) 80 Eng. Rep. 1161, 1162 (KB).

b. The Statute’s prohibition on unusually dangerous weapons was reinforced in subsequent enactments that banned specific weapons. Some of these enactments stated that the specified weapons were already “contrary to the Form of the Statute of Northampton.” See, e.g., 7 Rich. 2, c. 13 (1383). In each instance, the weapons were restricted because they were unusually dangerous.

Launcegays. The first English statutes banning a particular weapon applied to launcegays: light, ashen lances with sharp points at both ends. 7 Rich. 2, c. 13; 20 Rich. 2, c. 1 (1396). Launcegays had a “lethal reputation” in England and consequently were “surrounded with notoriety.” Michael J. Harbinson, *The Lancegay and Associated Weapons*, 20 J. Medieval Mil. Hist. 137, 137, 157 (2022). The launcegay’s lethality

derived from its “versatility.” *Id.* at 162. Launcegays could be “deployed” with “celerity,” while “penetrat[ing] armor at close quarters” and “giving death at a single blow.” *Id.* at 162, 171. Someone armed with a launcegay could “easily best those armed with a sword and buckler,” and they remained “effective weapon[s], even in an age of more sophisticated firearms.” *Id.* at 157-58.

Launcegays were “used by all classes” and “immensely popular,” but, because of their lethality, they were also favored “instrument[s] of lawlessness and murder.” *Id.* at 157. Launcegays were eventually banned following their use in a series of well-publicized murders and their “responsib[ility] for fatalities” in numerous “personal quarrels, brawls, and street fighting.” *Id.* at 157-58. In a 1441 dispute involving officers of the archbishop of York, “[s]everal men were killed and wounded with lancegays used by both sides.” *Id.* at 158. Later, the speaker of the House of Commons was “murdered with a vicious blow from a lancegay” after an ambush “upon the open highway.” *Id.* at 158, 171. The statutes banning launcegays “attempted to deal” with the violence “in which the lancegay played a prominent role.” *Id.* at 158.

Crossbows. The launcegay bans were followed by statutes banning and restricting crossbows. 19 Hen. 7, c. 4 (1504); 6 Hen. 8, c. 13 (1515); 33 Hen. 8, c. 6. Crossbows had “a more dangerous nature” than “ordinary bow[s]” because they were “more accurate” and used a “heavier arrow,” such that light armor was “almost useless as a defence.” Ralph Payne-Gallwey, *The Crossbow* 37, 61 (1903). And crossbows’ ease of use exacerbated their dangerousness—“evil minded people” carried them “ready bent and charged,” to the “risk of passengers on the highways.” *Id.* at 34 (citing 33 Hen.

8, c. 6). Like launcegays, crossbows were widely restricted after their dangerousness came to light through “detestable and shameful murders.” 33 Hen. 8 c. 6.

Pocket dagges. Laws prohibiting concealable guns like “pocket dagges” addressed similar concerns. *See* 2 Tudor Royal Proclamations, No. 641 (1579) (Paul L. Hughes & James F. Larkin eds., 1969); 33 Hen. 8, c. 6. Pocket dagges were “especially dangerous” because they were both lethal and easily concealable, making them a choice weapon for ambushes and “assassination[s].” Lois G. Schwoerer, *Gun Culture in Early Modern England* 61-62 (2016). Because attacks with pocket dagges could not be anticipated, they posed an “inevitable danger in the hands of desperate persons.” 1 Stuart Royal Proclamations, No. 126 (1613) (James F. Larkin & Paul L. Hughes eds., 1973). Their prevalence was thus to the “great peril and continual fear and danger of the King’s most loving subjects.” 33 Hen. 8, c. 6.

The bans on pocket dagges were also precipitated by acts of public violence that demonstrated the dangers they posed, including prominent “[m]urders of high-placed political leaders” using similar weapons. Schwoerer, *supra*, at 61. For example, William I of Orange was killed when a double agent “pulled a wheel-lock multiple-firing pistol from his clothing” and shot him “before anyone could intervene.” *Id.* at 62. “[A]larm over the danger” “led to a succession of proclamations to ban” them. *Id.* at 61.

Steelets. Worries about weapons that could easily be used for assassinations also drove the prohibition on steelets, which were “noted [i]nstruments of murder.” 1 Stuart Royal Proclamations, No. 160 (1616)

(James F. Larkin & Paul L. Hughes eds., 1973). A steelet was a “small, and sharpe-pointed dagger,” *Styilet*, Randle Cotgrave, *A Dictionarie of the French and English Tongues* (London, 1611), that could produce “deep wound[s], with a small external orifice,” 1 Benjamin Gooch, *A Practical Treatise on Wounds and Other Chirurgical Subjects* 141 (Norwich, 1767). Although the wound on its surface would appear minor, “the greatest distress” could “arise[] from the smallest punctures,” which were “more hazardous than incised wounds of much greater extent.” 1 Benjamin Bell, *A System of Surgery* 414, 420-21 (7th ed. 1801). Because such wounds damaged “internal parts, to which the medical aid cannot reach,” they were often “absolutely mortal.” Samuel Farr, *Elements of Medical Jurisprudence* 100 (London, 1788).

c. Continuing into the seventeenth and eighteenth centuries, the prevailing understanding was that no English right to possess unusually dangerous weapons existed. When the English Declaration of Rights first guaranteed an individual right to bear arms in 1689, it stated that the right extended only “as allowed by Law.” 1 W. & M., 2d sess., c. 2, § 7 (1689). That qualification approved earlier enactments prohibiting “such arms” as “favour[ed] the designs of murderers.” Granville Sharp, *Tracts, Concerning the Ancient and Only True Legal Means of National Defence, By A Free Militia* 17-18 (London, 3d ed. 1782) (citing 1 W. & M., 2d sess., c. 2, § 7, and 33 Hen. 8, c. 6). The Declaration of Rights also allowed for continued application of the Statute of Northampton to “dangerous or unusual” weapons. 4 Blackstone, *supra*, at 148-49; *see* 1 Hawkins, *supra*, at 135 (citing both the Statute of Northampton and a weapon ban in describing bounds of the right).

Because the Declaration of Rights did not protect use of unusually dangerous weapons, laws outlawing those weapons continued to be enforced after the Declaration's adoption. Beginning in 1671, weapon-specific bans were largely "superseded" by the Game Acts, which prohibited most firearms for most English citizens. 2 R. Burn, *The Justice of the Peace, and Parish Officer* 243 n.† (London, 11th ed. 1769); see 22 & 23 Car. 2, c. 25 (1671). But weapon-specific statutes were still sometimes invoked "in preference to the new act[s]" in prosecutions. Joyce Lee Malcolm, *To Keep and Bear Arms: The Origins of an Anglo-American Right* 87 (1994). Those centuries also saw continued enforcement of the Statute of Northampton. In 1751, a man was prosecuted for "going Armed with a Cutlass Contrary to the Statute" of Northampton. *Rex v. Mullins* (Ct. of Oyer & Terminer, Middlesex 1751; Quarter Sessions, Middlesex 1751), in *Middlesex Sessions: Sessions Papers—Justices Working Documents*. And in 1820, several men were convicted for "carry[ing] arms" in a manner that "produce[d] terror and alarm." *Rex v. Dewhurst*, 1 State Trials, N.S. 529, 601-02 (1820). Both the Statute of Northampton and the weapon-specific laws were thus still "undoubtedly in force" at the Founding. Burn, *supra*, at 243 n.†; see Sharp, *supra* at 18.

d. While professing fealty to *Bruen*'s historical test, petitioners largely eschew English sources. Instead, they maintain that "there is no need for fresh historical analysis" because "*Heller* already has set the historical ground rules" by citing a "historical tradition of prohibiting the carrying of 'dangerous and unusual' weapons." Pet'rs Br. 24 (quoting *Heller*, 554 U.S. at 627). Petitioners rely on that "conjunctive" language to contend that English law supports only restrictions

on unusual weapons, rather than on unusually dangerous weapons. *Id.* at 38.

Petitioners are wrong on multiple dimensions. First, neither *Heller* nor *Bruen* “decide[d] anything about the kinds of weapons that people may possess.” *Bruen*, 597 U.S. at 72 (Alito, J., concurring). In *Rahimi*, this Court rejected a similar attempt to rely on a single sentence in *Heller* involving an issue not squarely presented—there, one referencing “responsible” citizens. 602 U.S. at 701. *Rahimi* recognized that the relevant “question was simply not presented” in *Heller* and thus conducted its own historical analysis. *Id.* at 702. The same approach is warranted here.

Second, *Heller*’s own cited sources indicate that English law permitted regulation of unusually dangerous weapons. *Heller* cites Blackstone’s *Commentaries*, which uses the disjunctive phrase “dangerous or unusual.” 4 Blackstone, *supra*, at 148-49 (cited by *Heller*, 554 U.S. at 627); see *Rahimi*, 602 U.S. at 697 (quoting Blackstone’s use of “dangerous or unusual”); Pet’rs Br. 43 (acknowledging that both “dangerous and unusual” and “dangerous or unusual” appear in English law). But the variation in phrasing is immaterial. Instead, the phrase “dangerous and/or unusual” represents “a figure of speech, with ‘dangerous’ and ‘unusual’ working together to form a single, complex idea.” *United States v. Bridges*, 150 F.4th 517, 546 (6th Cir. 2025) (opinion of Nalbandian, J.) (citing Samuel L. Bray, “Necessary and Proper” and “Cruel and Unusual”: *Hendiadys in the Constitution*, 102 Va. L. Rev. 687, 688-89, 695-701 (2016)); see *Grant* Pet. App. 69a-70a (Nathan, J., concurring).

Finally, courts do not parse “common-law terms as if they came from written law.” *Bridges*, 150 F.4th at

546 n.33 (opinion of Nalbandian, J.). And the common-law history, as set out in Blackstone and in the discussion above, confirms that weapons were regulated because they were unusually dangerous.

2. *States have consistently regulated unusually dangerous weapons.*

The American historical tradition since the Founding reflects a similar pattern: States have consistently restricted weapons with particularly dangerous characteristics after real-world experience demonstrated the public-safety risks those weapons posed.

a. As *Bruen* recognizes, the American colonies carried forward the English tradition of restricting unusually dangerous weapons. 597 U.S. at 46-47. Justices of the Peace could apprehend “any Person who shall go or ride armed with unusual and offensive Weapons.” James Davis, *The Office and Authority of a Justice of the Peace* 13 (1774) (citing Michael Dalton, *The Country Justice* 37 (1705)). And the American common law recognized that an “affray” could occur “where there is no actual violence; as where a man arms himself with dangerous and unusual weapons, in such a manner, as will naturally diffuse a terrour among the people.” 3 Bird Wilson, *Works of the Honourable James Wilson* 79 (Phila., 1804). Several colonies and States codified this common-law principle. See, e.g., Act of Nov. 1, 1692, ch. 18, § 6, 1 *Acts and Resolves of the Province of Massachusetts Bay* 52-53 (1869); Act of June 14, 1701, ch. 7, 1 *Laws of New Hampshire* 679 (Albert Stillman Batchellor ed., 1904); Act of 1741, ch. 5, § 2, *The State Records of North Carolina* (Walter Clark ed., 1904); Act of Nov. 27, 1786, ch. 21, *A Collection of All Such Acts of the General Assembly of Virginia, of a Public and Permanent Nature, As Are Now in Force* 33 (1794);

Act of Nov. 13, 1801, ch. 22, § 6, *Acts Passed at the First Session of the Fourth General Assembly of the State of Tennessee* 260-61 (1801).

At least three colonial statutes also restricted specific classes of unusually dangerous weapons. In response to the “great fear and quarrels” caused by people “wearing swords, daggers, pistols, dirks, stilladoes, skeines, or any other unusual or unlawful weapons,” East New Jersey in 1686 banned the concealed carry of those weapons. An Act Against Wearing Swords, &c., ch. IX, in Aaron Leaming & Jacob Spicer, *The Grants, Concessions, and Original Constitutions of the Province of New Jersey* 289, 289-90 (2d ed. 1881). New Jersey and Plymouth also restricted the setting of loaded guns that could be discharged by “string, rope, or other contrivance,” i.e., trap guns, because that “most dangerous method of setting guns [had] too much prevailed in” New Jersey, Act of Dec. 21, 1771, ch. 540, § 10, *Laws of the State of New-Jersey* 27-28 (1821), and “greatly indangered” people in Plymouth, Act of June 8, 1670, in *Records of the Colony of New Plymouth* 226-30 (D. Pulsifer ed. 1861).

The relative dearth of specific arms restrictions during the colonial and Founding era does not suggest that such restrictions would have conflicted with the Second Amendment. It simply reflected the on-the-ground reality that interpersonal violence rarely resulted in death. See Randolph Roth, *Why Guns Are and Are Not the Problem: The Relationship Between Guns and Homicide in American History*, in *A Right to Bear Arms? The Contested Role of History in Contemporary Debates on the Second Amendment* 116 (Jennifer Tucker et al. eds., 2019). Impulsive homicides by early Americans tended to involve “weapons that were close at hand,” such as shovels, whips, and sticks. *Id.*

at 117. And the muzzle-loading firearms of the era did not reliably kill: They often misfired, typically fired only a single shot at a time, and had to be reloaded before each use. *Id.*

b. Weapons became increasingly lethal in the ensuing decades, and notorious criminal episodes often underscored certain weapons' atypical lethality compared to their contemporary peers. Restrictions quickly followed. Indeed, prior to the Fourteenth Amendment, numerous States and territories enacted regulations of unusually dangerous weapons.

Between the 1840s and the 1870s, America was “the most homicidal society in the Western world.” Roth, *supra*, at 123. Advances in weapons technology exacerbated the problem: By the mid-1800s, there existed an assortment of excessively dangerous weapons, including Bowie knives, repeating pistols, and slungshots. And States enacted restrictions on those weapons in response.

Bowie knives. The story of this bloody century begins with the Bowie knife, one of “the greatest nuisances of [the] day,” *Hill v. State*, 53 Ga. 472, 474 (1874), and “a leading example of [the] tradition” of banning unusually dangerous weapons, *Barnett*, 180 F.4th at 1047. The Bowie knife was a large knife with a clipped point. Harold L. Peterson, *American Knives* 26 (1958). That structure made it “the most deadly of all weapons in common use.” *Cockrum v. State*, 24 Tex. 394, 403 (1859). The knife was “difficult to defend against ... by any degree of bravery, or any amount of skill.” *Id.* at 402; see *Haynes v. State*, 24 Tenn. 120, 122 (1844) (describing Bowie knives as “extremely dangerous and destructive to human life”). And unlike the firearms of the era, which often inflicted survivable

wounds, Bowie knives were, “in ... device and design ... instrument[s] of almost certain death.” *Cockrum*, 24 Tex. at 402; see David Kopel et al., *Knives and the Second Amendment*, 47 U. Mich. J. L. Reform 167, 187 (2013).

In the 1830s, as America teetered on the brink of a “homicide crisis,” Roth, *supra*, at 123, the Bowie knife gained notoriety, fueled by legends that folk hero James Bowie used it to outmatch armed adversaries in a brawl while severely wounded. See Norm Flayderman, *The Bowie Knife: Unsheathing an American Legend* 287-89 (2004). Beginning in the late 1830s, nearly every State responded to the uniquely lethal nature of Bowie knives (and their cousin, a dagger called the “dirk”) by enacting legislation to suppress them. At least three States banned the sale of Bowie knives entirely. App. 1a-3a, 5a. At least a dozen States and territories barred the carrying of Bowie knives or dirks, whether open or concealed, and many more prohibited the concealed carry of those knives. App. 7a-17a; see David B. Kopel & Joseph G.S. Greenlee, *The History of Bans on Types of Arms Before 1900*, 50 J. of Legis. 223, 298-328 (2024). Still others imposed prohibitive taxes on the knives. See *id.* at 300-01; App. 1a-2a.

Concealable, small handguns. Many States restricting Bowie knives simultaneously restricted certain handguns. Nineteenth-century technological advances increased firearms’ lethality: Percussion-cap ignition systems replaced weaker and less reliable flintlocks and paved the way for repeating pistols; the invention of modern metallic cartridge ammunition led to easier-to-use breechloading firearms; and the invention of smokeless powder increased firearms’ range and stopping power. See Brian DeLay, *The Myth of Continuity in American Gun Culture*, 113 Calif. L. Rev.

1, 36-37 (2025); Kopel & Greenlee, *supra*, at 266-68. Those advances led to the proliferation of affordable, reliable, and easily concealable percussion-cap and repeating pistols, further exacerbating the Nation’s homicide crisis. *See* DeLay, *supra*, at 37.

Legislatures responded, increasingly identifying revolvers and pistols as “dangerous or deadly weapon[s]” subject to restriction. *See* App. 9a, 16a-17a. More than a dozen States and territories banned the public carry of most pistols. App. 7a-11a, 13a-17a. Arkansas, Tennessee, and Georgia also banned the sale or transfer of pistols with few exceptions. App. 1a-3a, 5a-6a.

Slungshots. Many States in the nineteenth century also enacted outright bans of slungshots—looped pieces of rope or leather tied around a heavy weight. These easily concealable weapons were considered “dangerous and foul,” *People v. Persce*, 97 N.E. 877, 877 (N.Y. 1912), and they escalated the danger posed by typical street crime. Kopel & Greenlee, *supra*, at 344-45. “One strike to the head ... usually result[ed] in the immediate cessation of hostility.” *Id.* at 344. In the mid-nineteenth century, seven States and two territories banned the manufacture and sale of slungshots. *Id.* at 346. At least ten other jurisdictions prohibited open or concealed carry of the weapon. *Id.* at 347-48.

With few exceptions, these restrictions on the century’s most dangerous weapons survived constitutional challenges under the Second Amendment and state analogues. Courts upheld various restrictions on Bowie knives, pistols, and slungshots. *See Aymette v. State*, 21 Tenn. 154, 158-62 (1840); *Andrews v. State*, 50 Tenn. 165, 186-87 (1871); *Dabbs v. State*, 39 Ark.

353, 357 (1882); *City of Salina v. Blaksley*, 83 P. 619, 620 (Kan. 1905). In doing so, many courts relied on the common-law tradition of restricting “dangerous or unusual weapons” rooted in the Statute of Northampton. *English v. State*, 35 Tex. 473, 476 (1871); see *State v. Workman*, 14 S.E. 9, 11 (W. Va. 1891); *Haile v. State*, 38 Ark. 564, 566 (1882) (noting “terror” caused by permitting anyone to be “prepared at all times to inflict death upon his fellow-citizens”).

c. Early twentieth-century restrictions on automatic and semi-automatic weapons continued the same tradition. See *Heller*, 554 U.S. at 605 (looking to sources “in the century after [the Second Amendment’s] enactment”). Following World War I, fully automatic, handheld weapons—namely, the Thompson submachine gun—entered the civilian market. The “Tommy gun,” developed for use in the war, was lightweight and capable of firing as many as 1,500 rounds per minute. Robert J. Spitzer, *Understanding Gun Law History After Bruen: Moving Forward By Looking Back*, 51 Fordham Urb. L. J. 57, 61 (2023). Its notorious use by criminals, including in the 1929 St. Valentine’s Day gangland massacre that killed seven, underscored the weapon’s atypical ability to kill many at once. See John Ellis, *The Social History of the Machine Gun* 154 (1975).

Between 1925 and 1934, at least 29 States restricted or outright banned fully automatic weapons. See Spitzer, *supra*, at 64. Congress intervened as well, enacting the National Firearms Act of 1934 to impose a registration scheme for automatic weapons, as well as prohibitive taxes on their transfer. See Pub. L. No. 73-474, 48 Stat. 1236 (1934). This Court upheld the constitutionality of that Act. See *United States v. Miller*, 307 U.S. 174, 178 (1939).

d. As with English history, petitioners fail to meaningfully respond to these American examples.

Petitioners first argue that Bowie-knife restrictions “date, at the earliest, to 1837, ... which is too late to inform the understanding of the right that was enshrined in the Constitution in 1791.” Pet’rs Br. 46 (citation omitted). But this Court frequently looks to nineteenth-century laws to explicate the Fourteenth Amendment’s incorporation of the Second Amendment, *see, e.g., Heller*, 554 U.S. at 614-19—particularly where, as here, those examples form part of a longer “regular course of practice,” *Bruen*, 597 U.S. at 35 (citation omitted). The twentieth-century regulations on early automatic weapons like the Tommy gun likewise reflect that same unbroken historical tradition.

Petitioners also liken the restrictions on Bowie knives to the handgun restrictions that were “insufficient” to justify the laws at issue in *Heller* and *Bruen*. Pet’rs Br. 47. But the question is whether the specific “challenged regulation” fits within the “historical tradition of firearm regulation.” *Rahimi*, 602 U.S. at 691 (citation omitted). And neither *Heller* nor *Bruen* had cause to consider the historical tradition of regulating unusually dangerous weapons.

B. AR-15s are unusually dangerous weapons.

This historical tradition “confirm[s] what common sense suggests”: a legislature may restrict possession of unusually dangerous weapons that wreak excessive harm on the public. *Rahimi*, 602 U.S. at 698. AR-15 platform rifles are precisely such a weapon. Like other weapons banned by American and English legislatures, they magnify the likelihood of casualties per incident compared to other available weapons. They possess a unique combination of features that enable

users to sustain rapid and accurate fire with tremendous stopping power and catastrophic wounding potential across long distances. These features make AR-15s a weapon of choice for modern mass shooters who seek to inflict as much damage as quickly as possible—and also make AR-15s unusually dangerous to law-enforcement personnel who respond to gunmen wielding them. Thus, regulations of AR-15s “address” the same “particular problems” as their English and American precursors. *Rahimi*, 602 U.S. at 692. If anything, AR-15s pose public-safety concerns far more profound than those that have been addressed by legislatures of the past.

1. *AR-15 platform rifles are designed to optimize sustained, rapid, accurate, and lethal fire from great distances.*

a. Originally developed for modern military combat, the AR-15 shares “the same basic structure and operation ... as its military counterpart, the M-16.” *Grant* Pet. App. 47a; see C.A. App. 407. Like the M-16, the AR-15 is a magazine-fed, gas-operated, shoulder-fired weapon. See Patrick Sweeney, *The Gun Digest Book of the AR-15*, at 31-41 (2005). And like the M-16, the AR-15 is designed for lightweight centerfire ammunition—most commonly .223/5.56 caliber rounds. C.A. App. 335-38, 389.

These features contribute to the AR-15’s lethality. AR-15 bullets leave the muzzle at a velocity of around 3200-3300 feet per second, which is similar to M-16s, and three times that of a 9mm handgun. C.A. App. 1030. That speed—the equivalent of crossing almost ten football fields in one second—allows AR-15 users to maintain accuracy over great distances. Indeed, AR-15s can reach a range of “approximately 400-500

yards, compared to just 50 yards for a typical handgun.” *Id.* at 1031. The high velocity bullets also deliver more kinetic energy upon impact, *see id.* at 1030, producing a shock wave that can “pulverize bones” and “shatter” organs outside of the bullet’s direct path, N. Kirkpatrick et al., *The Blast Effect: This Is How Bullets from an AR-15 Blow the Body Apart*, Wash. Post (Mar. 27, 2023).

These high-velocity rounds cause catastrophic damage, drastically reducing a person’s chances of survival. *See* C.A. App. 389, 1032-35. The AR-15’s standard .223 caliber bullet “fragment[s]” and rotates when it impacts human tissue. *Id.* at 389. “As it passes through the body, the rotated bullet creates a large, ‘temporary cavity’ or ‘blast wave’ that can be ‘up to 11-12.5 times larger than the bullet itself’”—“an effect known as ‘cavitation.’” *Bianchi*, 111 F.4th at 455 (citations omitted); *see* C.A. App. 1031. Cavitation leads to injuries—“such as ‘multiple organs shattered,’ bones ‘exploded,’ and ‘soft tissue absolutely destroyed’”—that “‘often cannot be repaired’ by trauma surgeons.” *Bianchi*, 111 F.4th at 455; C.A. App. 1034-35.

Together, these effects make AR-15s significantly more lethal than a standard handgun. *See* C.A. App. 389. Handgun rounds are slower, with less kinetic energy, than rounds shot from an AR-15. *See id.* at 1035. As a result, “a ‘typical 9mm bullet wound to the liver’ from a commonly used handgun like the Glock 19 ‘will produce a pathway of tissue destruction in the order of one inch to two inches.’” *Bianchi*, 111 F.4th at 455 (alterations omitted). “[A]n AR-15 wound,” in contrast, “‘will literally pulverize the liver.’” *Id.*; *see* C.A. App. 407-08, 1034.

b. AR-15s also enable users to inflict these catastrophic injuries on “multiple human targets very rapidly.” *Ocean State*, 95 F.4th at 46. This capacity to kill large numbers of people with extreme speed distinguishes AR-15s from almost all other modern weapons, including other rifles. *See* C.A. App. 1032.

Standard AR-15s feature straight-line geometry, a buffer-and-spring system, and gas operation—all of which reduce felt recoil. Sweeney, *supra*, at 31-41. Lower recoil enables the user “to continue firing without having to re-sight (i.e., re-aim) the weapon at the target.” C.A. App. 1031. “Rather, the shooter is able to keep the assault weapon still and produce a consistently straight line of fire.” *Id.* The AR-15’s low recoil contrasts with other high-powered rifles and shotguns, “which tend to have greater recoil” that “necessarily disrupts follow-on shots.” *Bianchi*, 111 F.4th at 455-56. “The excessive recoil of a hunting rifle,” for example, “precludes rapid firing on target because of the obligatory motion of the gun and its impact on the shooter.” *Capen v. Campbell*, 134 F.4th 660, 673 (1st Cir. 2025); *see* C.A. App. 1235 (AR-15-style weapons “are lighter, produce less recoil, and are easier to fire” than “hunting rifles”).

The AR-15’s standard attachments further enhance a user’s ability to accurately and “quickly lay down a high volume of fire.” C.A. App. 542. Unlike many hunting rifles, AR-15s are generally configured with forward pistol grips, which “give a shooter greater control over a weapon during recoil.” *Id.* at 541. Standard AR-15s also come equipped with barrel shrouds, ventilated covers that shield the operator from the burning temperatures caused by firing multiple rounds. *See id.* at 541-42. A shroud ensures a

user can continue holding an overheated barrel during successive firing. *See id.*

These features enable AR-15 users to achieve “the same rate of fire as the M-16 on semiautomatic.” C.A. App. 1174. According to the U.S. Army Field Manual, such “rapid semiautomatic fire” is “[t]he most important firing technique during fast-moving, modern combat” and is “superior to automatic fire in all measures: shots per target, trigger pulls per hit, and time to hit.” *Id.* at 427. The AR-15 thus enables a user to “plac[e] a large volume of fire on poorly defined targets or target areas, such as short exposure, multiple, or moving targets.” *Id.*

Users can also easily modify AR-15s to achieve even greater rates of fire. *See* C.A. App. 548, 1175. Using home-made alterations or even just a rubber band or belt loop, shooters can hold their trigger finger in place and harness the recoil from their first shot to fire an AR-15 continuously, allowing them to empty an entire magazine within seconds. *Id.* at 1175-76; *see Garland v. Cargill*, 602 U.S. 406, 411 (2024). And with a “bump-stock” or similar attachment, a shooter can fire an AR-15 at a rate of up to 800 rounds per minute, approximating the speed and ease of fully automatic fire. *Bevis v. City of Naperville*, 85 F.4th 1175, 1196 (7th Cir. 2023); *see* C.A. App. 1032. Other rifles without a detachable shoulder stock cannot be adapted to reach automatic rates of fire as seamlessly.

Finally, AR-15s’ lethality is magnified by their ability to accept extended magazines. *See* C.A. App. 411. While many hunting rifles have a fixed internal magazine that can hold only three to five rounds, AR-15s generally incorporate detachable 30-round magazines, which can be replaced and “reloaded ... in as little as

three seconds.” *Grant* Pet. App. 42a. And even that three-second pause is unnecessary when AR-15s are equipped with extended magazines, which can enable the uninterrupted firing of up to 100 rounds. C.A. App. 576, 606.

c. Neither petitioners nor the federal government meaningfully contest that the AR-15 is unusually dangerous. Petitioners assert that “[t]o the extent the features singled out by Connecticut ... make a difference, they do so by promoting accuracy and therefore safety in using a firearm, not danger.” Pet’rs Br. 49. But as explained, the features listed primarily enable rapid and sustained firing. *See supra* at 26-27. And while some features may increase accuracy, those features only make the AR-15 *more* lethal when wielded by mass shooters.

Meanwhile, the federal government sets up a strawman: Unable to say anything about AR-15s, it claims that “rifles are in many ways less dangerous than handguns.” U.S. Br. 30. But no one asserts that rifles *in general* are unusually dangerous—and indeed, the vast majority of commercially available rifles are not AR-15s. *See* C.A. App. 452-53. Connecticut law permits possession and use of such rifles. *See id.* at 365. The only question here is whether Connecticut may ban the AR-15 platform given its excessive dangerousness relative to other firearms, including other rifles.

Petitioners and the federal government fare no better in observing that handguns, although potentially dangerous, are protected by the Second Amendment. Pet’rs Br. 37; U.S. Br. 29. That is because the relevant historical tradition justifies only bans on weapons “whose danger and lethality stand out” relative to

contemporary peers. *Barnett*, 180 F.4th at 1047. While handguns are “involved in a majority of firearm deaths and injuries in the United States,” *Heller*, 554 U.S. at 697-98, that is a product of their popularity, not their excessive lethality. The relevant question is how lethal a weapon is when used in a single incident—not the aggregate number of homicides the weapon causes. When assessed on that metric, AR-15s are atypically lethal “relative to the semiautomatic handguns that *Heller* confirmed are protected.” *Barnett*, 180 F.4th at 1054. Thus, AR-15s are unusually dangerous while handguns are not.

2. *AR-15s’ features enable mass shootings and law-enforcement murders.*

Real-world experience confirms that AR-15s can kill more people more quickly than any other commercially available weapon. Originally designed for the military, AR-15s have consistently been used in mass shootings precisely because they rapidly inflict widespread damage. And AR-15s pose an acute threat to law-enforcement officials responding to active-shooter events. In contrast, AR-15s are rarely used for self-defense.

a. AR-15s were designed in the late 1950s in response to a U.S. military request for a “lightweight, high-velocity rifle,” like the Soviet AK-47, “with firepower capable ‘of penetrating a steel helmet or standard body armor at 500 yards.’” C.A. App. 406, 544. During the Vietnam War, military officers recognized the AR-15’s unprecedented stopping power, describing its “lethality” and “reliability record” as “particularly impressive.” *Id.* at 406. One Army Ranger, who shot an enemy from about 50 feet away with an AR-15, observed: “One round in the head—took it completely off.

Another in the right arm, took it completely off, too. One round hit him in the right side, causing a hole about five inches in diameter.” *Id.* The AR-15’s “phenomenal lethality” led the Army to adopt it as the standard-issue rifle, rebranding it as the M-16. *Id.* at 407.

b. Once commercially available in semiautomatic form, AR-15s and other similar rifles became “the preferred weapons for those bent on wreaking death and destruction upon innocent civilians.” *Bianchi*, 111 F.4th at 456. Criminal organizations, terrorists, and lone gunmen seeking to kill as many people as quickly as possible have all selected AR-15 platform rifles because they allow a single, relatively unskilled shooter to execute a mass casualty event.

The rate at which AR-15s are used in public mass shootings vastly exceeds their rate of ownership in the population. C.A. App. 441-42.¹ AR-15 and AK-47 platform rifles constitute only about 5% of privately owned firearms, but have been used in 24% of public mass shootings. C.A. App. 441-42, 452, 972. Since 2012, AR-15s or similar rifles were gunmen’s chosen weapon in twelve of the seventeen deadliest mass killings in the United States: the 2012 Sandy Hook Elementary shooting; the 2012 Aurora movie theater shooting; the 2015 San Bernardino office shooting; the 2016 Pulse nightclub shooting; the 2017 Las Vegas concert shooting; the 2017 Sutherland Springs church shooting; the

¹ The Congressional Research Service defines a “public mass shooting” as a “homicide incident in which four or more victims are murdered with firearms” that is “*not* attributable to any other underlying criminal activity or commonplace circumstance.” William J. Krouse & Daniel J. Richardson, *Mass Murder with Firearms: Incidents and Victims, 1999-2013*, at 10 (2015), <https://sgp.fas.org/crs/misc/R44126.pdf>.

2018 Parkland high school shooting; the 2018 Pittsburgh synagogue shooting; 2019 El Paso shooting; the 2021 Boulder supermarket shooting; the 2022 Buffalo supermarket shooting; and the 2022 Robb Elementary School shooting in Uvalde. *See* Todd C. Frankel et al, *The Gun That Divides a Nation*, Wash. Post (Mar. 27, 2023).

As these figures demonstrate, mass shootings are also deadlier when an AR-15 or similar rifle is used. From 1966 to the present, “semiautomatic rifles cause[d] an average of 40 percent more deaths and injuries in mass shootings than regular firearms, and 26 percent more than semiautomatic handguns.” C.A. App. 1177. Since 1991, “[f]our of every five ‘mass shootings that resulted in more than 24 deaths involved the use of assault rifles,’ as did every single mass shooting involving more than 40 deaths.” *Bianchi*, 111 F.4th at 456; *see* C.A. App. 443. In fact, AR-15 and similar rifles were used in six of the seven deadliest acts of intentional mass violence in the United States since September 11th. *See* C.A. App. 441-42. So while handguns might be used more frequently given their higher rate of ownership, *see* Pet’rs Br. 41, mass shootings involving AR-15-style rifles are far deadlier.

c. AR-15s have also proved to be particularly dangerous to the law-enforcement officers responding to these tragedies. AR-15 rounds can readily penetrate standard-issue soft body armor. C.A. App. 379. And many law enforcement officers do not themselves carry AR-15-style rifles, meaning a first responder will likely have weaker firepower than an assailant equipped with an AR-15. *Bianchi*, 111 F.4th at 457. The AR-15’s range also “allow[s] criminals to effectively engage law enforcement officers from great

distances,’ giving them a ‘military-style advantage.’” *Id.*; see C.A. App. 379. This increased threat has sometimes caused police to delay entering buildings during mass shootings, as occurred in the Parkland and Uvalde school shootings. See C.A. App. 379-80.

The statistics on slain law-enforcement officers confirm the threat that AR-15s pose. “[A]ssault rifles have been used in the deadliest recent attacks on law enforcement officers,” including the 2016 killing of five Dallas police officers, the 2022 murder of two Bristol police officers, and the 2024 murder of four law enforcement officers in Charlotte. *Bianchi*, 111 F.4th at 457-58; see Robert J. Devlin, Jr., Conn. Off. of Inspector Gen., *Report Regarding the Use of Deadly Force by the Bristol Police Department on October 12, 2022*, at 15 (2024). And studies estimate that AR-15s and similar rifles—even though rarely used in general criminal activity—have been responsible for between 13 to 20 percent of those officers killed in the line of duty. See C.A. App. 379-80.

d. In contrast to their disproportionate use in mass shootings, AR-15 platform rifles are used relatively rarely in reported incidents of self-defense. See *Heller*, 554 U.S. at 630 (explaining the Second Amendment protects “the core lawful purpose of self-defense”). Analysis of a Heritage Foundation database documenting defensive gun uses revealed that only 4% of defenders used a rifle—compared to 90% who employed a handgun. C.A. App. 963-65. “These figures remained the same after excluding states with assault weapon bans, meaning they reflect self-defenders’ choices when unfettered by regulation.” *Barnett*, 180 F.4th at 1051; see C.A. App. 965. Similarly, of all 406 domestic “active shooter” incidents between January 1, 2000, and December 21, 2021, “only 1 ... involved an

armed civilian intervening with an assault weapon.” C.A. App. 451.²

The AR-15’s unique design for rapid, sustained, and long-distance firing makes it a poor fit for typical self-defense scenarios, as compared to handguns. *See Heller*, 554 U.S. at 629 (discussing the ready accessibility and maneuverability that make handguns ideally suited to self-defense in the home). And “using more than ten rounds in self-defense is ‘extremely rare.’” *Barnett*, 180 F.4th at 1051; *see* C.A. App. 961. On average, defenders fire 2.2 rounds in reported self-defense incidents; one expert identified only two incidents—in a sample of roughly one thousand—in which a defender fired more than ten rounds. *See* C.A. App. 950, 953. In short, “civilian self-defense rarely—if ever—calls for the rapid and uninterrupted discharge of many shots.” *Ocean State*, 95 F.4th at 45.

C. Connecticut’s method of regulating AR-15s is relevantly similar to prior laws.

The many laws regulating unusually dangerous weapons are also “relevantly similar” to Connecticut’s statute in “how” they burdened the Second Amendment right. *Rahimi*, 602 U.S. at 692.

1. The historical record—from medieval England through twentieth-century America—demonstrates a consistent pattern of outright bans on certain excessively dangerous weapons. In 1383, England “clearly put out” the launcegay “as [a] Thing prohibited.” 7 Rich. 2, c. 13. In the 1500s and 1600s, English citizens were forbidden from making, selling, or possessing crossbows, pocket dagges and steelets even “in ... their

² The FBI defines “active shooter” incidents as violent attacks involving “one or more individuals actively engaged in killing or attempting to kill people in a populated area.” C.A. App. 450.

houses” and anyone who had them was ordered to “break and destroy them in pieces.” 33 Hen. 8, c. 6; 1 Stuart Royal Proclamations, No. 126 (1613); 1 Stuart Royal Proclamations, No. 160 (1616). *See supra* at 12-14. At the Founding, one colony entirely banned the use of trap guns. Act of Dec. 21, 1771, ch. 540, § 10, *Laws of the State of New-Jersey* 27-28. Across the nineteenth century, States banned unusually dangerous weapons, including Bowie knives and slungshots. *See App.* 1a-6a. And in the early twentieth century, many States outlawed machineguns. *See supra* at 22.

Connecticut’s statute matches the scope of those historical bans. It applies only to a defined set of weapons, including AR-15s, leaving residents free to possess “more than 1,000 [other] firearms for self-defense, hunting, and sport shooting.” *Grant* Pet. App. 50a; *see C.A. App.* 365. Similarly, the analogous historical bans singled out excessively dangerous weapons that proliferated in their respective eras, without limiting individuals’ access to other weapons.

2. The even more prevalent bans on public carry of unusually dangerous weapons also support the constitutionality of Connecticut’s statute. Those laws imposed “burden[s]” on “law-abiding citizen[s]’ right to armed self-defense” at least as weighty as Connecticut’s AR-15 ban, given that many of the regulated weapons were frequently carried for defensive purposes. *Bruen*, 597 U.S. at 29. In the violent South and West of the mid-nineteenth century, “it [was] supposed essential to personal safety to go armed with pistols and bowie-knives.” William Jay, *Address Before the American Peace Society At Its Annual Meeting* 23-24 (1845). Yet public-carry bans on Bowie knives, pistols, and other weapons prohibited exactly this practice.

See, e.g., App. 7a-17a.³ That these laws banned public carry rather than possession did not make them any less “repugnant” to their detractors, who believed they “deprived the people of the necessary means of self-defense.” *English*, 35 Tex. at 479. In contrast, as already explained, AR-15s are infrequently used—and generally ill-suited—for self-defense.

This Court has previously held that historical restrictions on carrying firearms support complete prohibitions on their possession. In *Rahimi*, the Court analogized to surety laws and going-armed laws—both of which left room for the regulated individuals to possess weapons, *see* 602 U.S. at 764, 770 (Thomas, J., dissenting)—in upholding a modern law that prohibited certain individuals from possessing firearms altogether. *See id.* at 695-702 (majority opinion). And in *Heller*, the Court relied on the historical tradition of “prohibiting the carrying of ‘dangerous and unusual weapons,’” as well as outright bans on such weapons, to explain why M-16 rifles “may be banned.” 554 U.S. at 627. Thus, while Connecticut’s ban on AR-15s is “by no means identical to” all prior restrictions on unusually dangerous weapons, “it does not need to be.” *Rahimi*, 602 U.S. at 698.

Petitioners thus err in questioning whether the bans on carrying Bowie knives can help justify Connecticut’s law. While those carry restrictions were “less severe” than Connecticut’s prohibition, Pet’rs Br. 46, the same was true of the analogous laws in *Rahimi*. Tellingly, the federal government never even contests that Connecticut’s law fits within the tradition of “how” legislatures regulated unusually dangerous

³ Although some laws exempted individuals with “reasonable grounds for fearing an unlawful attack,” the potential attack had to be “immediate and pressing.” App. 14a-15a.

weapons. And the federal government acknowledges that legislatures enacted outright bans of weapons such as Bowie knives and slungshots. U.S. Br. 12.

Any distinctions between the historical analogues and Connecticut’s AR-15 ban are particularly immaterial here given that Connecticut’s statute responds to “unprecedented societal concerns” and “dramatic technological changes.” *Bruen*, 597 U.S. at 27. Until this century, a single individual could not feasibly cause violence at the scale of the Sandy Hook massacre. And until the twentieth century, mass killings were a “group activity,” J.A. 333—leading Founding- and Reconstruction-era legislatures to prohibit armed groups. See Mark Anthony Frassetto, *Mass Violence and the Second Amendment*, 76 Ala. L. Rev. 43, 54-68 (2024). Thus, “[t]oday, the right to bear arms is misused” in “ways that were unknown to our forebears but pose an equivalent”—indeed, a greater—“risk to persons or property.” *Wolford v. Lopez*, 609 U.S. 185, 220 (2026) (Barrett, J., concurring).

These “dramatic technological changes” in weapons’ lethality warrant a “more nuanced approach,” *Bruen*, 597 U.S. at 27, even to the extent that Connecticut’s “challenged regulation does not precisely match its historical precursors,” *Rahimi*, 602 U.S. at 692. Indeed, a public-carry ban would do little to prevent the “unprecedented societal concern[]” of mass shootings, *Bruen*, 597 U.S. at 27, given that a person intent on killing large numbers of people would not be deterred by a public-carry restriction. Only a possession ban prevents such a person from acquiring a weapon to carry out his crime.

3. Finally, the “penalt[ies]” imposed by Connecticut’s law, “another relevant aspect of the burden,” also

mirror those imposed by historical regulations. *Rahimi*, 602 U.S. at 699. Several historical bans—including on trap guns, Bowie knives, pistols, and slungshots—imposed terms of incarceration upon violators. *See, e.g.*, App. 2a, 4a-6a. Connecticut likewise imposes criminal penalties, including incarceration, for violations of its prohibitions on the transfer, sale, and possession of assault weapons. Conn. Gen. Stat. §§ 53-202b-c.

II. Petitioners’ Common-Use-Only Test Lacks Merit.

Notwithstanding that AR-15 bans fit comfortably within the historical tradition of regulating unusually dangerous weapons, petitioners and the federal government insist that AR-15s cannot be regulated simply because the weapons are in “common use.” Pet’rs Br. 28-36; U.S. Br. 9-23. For petitioners, the fact that “tens of millions of Americans” now own AR-15s means that legislatures will never again be able to prohibit them, regardless of the harms they pose. Pet’rs Br. 34. Neither history nor precedent nor logic supports petitioners’ attempt to discern the Constitution’s meaning based on a “trivial counting exercise.” *Bianchi*, 111 F.4th at 460.

A. No historical source limits regulatory authority simply because weapons are prevalent.

The historical tradition offers no support for petitioners’ claim that commonly used weapons are immune from regulation. Instead, English and American history confirms that legislatures have consistently banned weapons only once those weapons became so popular that their dangers to society became obvious and pressing.

1. Under English law, weapons like launcegays, crossbows, and pocket dagges were banned because they created “peril” and “danger” for “the King’s most loving subjects.” 33 Hen. 8, c. 6; *see supra* at 11-14. Each of these weapons was in “common use for lawful purposes” at the time that it was restricted. Pet’rs Br. 29.

As explained, launcegays were prohibited beginning in the fourteenth century. *See supra* at 11. But launcegays were also “one of the most ubiquitous weapons” in England “from ancient times well into the modern era.” Harbinson, *supra* at 137. Launcegays were “commonly used throughout the whole of the Middle Ages,” *id.*; in England, they were “used by all classes” and considered “immensely popular” by “nobles and men-at-arms,” *id.* at 157. England banned the launcegay only after real-world experience showed that it had become the “preferred weapon” for acts of violence. *Id.*

The same is true of crossbows. *See supra* at 12-13. Crossbows were “fairly common among the English in the fifteenth century.” Payne-Gallwey, *supra*, at 33. When they were banned in the early 1500s, they were a popular choice “for shooting at a mark.” *Id.* at 224. The crossbow’s popularity “for killing deer” and “shooting at butts” (targets) led to “reservations” about “forbidd[ing] [them] by law among the people of England.” *Id.* at 33.

Similarly, when pocket dagges and other concealable guns were banned, they were “in common use” and “common[ly] carr[ied]” “not only” by “ruffians and other lewd and dissolute men” but also by “common and ordinary persons.” Schwoerer, *supra*, at 182; *see* 3 Tudor Royal Proclamations, No. 804 (1600) (Paul L.

Hughes & James F. Larkin eds., 1969); see 1 Stuart Royal Proclamations, No. 126 (1613) (noting that pocket dagges had “grown very common” before they were banned).

2. Nor did the early American legal tradition exempt weapons in common use from restriction.

One of the most restricted weapons of the nineteenth century, the Bowie knife, was a “weapon[] in common use.” *Cockrum*, 24 Tex. at 403. The Bowie knife was “widely carried by Americans of all stripes,” including “upstanding citizens and villains” alike. Flayderman, *supra*, at 20, 125. Because the knife was useful for self-defense and hunting, “[i]n many communities[,] no man, whether hunter, gambler, tradesman or political leader felt himself fully clothed without one.” Peterson, *supra*, at 25. As one English visitor recounted, “[a]lmost every individual in America, more particularly in the Southern States, carrie[d] some deadly instrument, or weapon about his person,” including “the bowie knife.” Francis Wyse, *America: Its Realities and Resources* 213-15 (1846). Bowie knives were so common that elected officials habitually carried them. Flayderman, *supra*, at 51-53; see *Barnett*, 180 F.4th at 1047 (“Bowie knives were both widespread and used for lawful purposes.”). Indeed, the historical sources so overwhelmingly stress the prevalence of Bowie knives that it is difficult to understand petitioners’ assertion that “it is not clear that Bowie knives were ‘in common use’ at the time they were banned.” Pet’rs Br. 48 (emphasis omitted).

The widespread use of Bowie knives and other weapons for lawful purposes did not prevent dozens of States from restricting those weapons. The Tennessee Supreme Court’s decision in *State v. Burgoyne*, 75

Tenn. 173 (1881), which upheld the State’s ban on sales of revolvers and certain types of pistols, is illustrative. The Court explained that “[t]he purpose of the lawmakers was to put down the pernicious habit of going armed[]—a habit that had grown into an almost universal custom, and one that could not be broken up so long as a traffic in the weapons was lawful.” *Id.* at 176. The ubiquitous carrying of the restricted weapons was the reason the law was enacted—not a reason to strike it down.

Other weapons historically banned by the States, including slungshots and automatic firearms, were also commonly used by civilians for self-defense. In Reconstruction-era New Orleans, for example, “respectable gentlemen and proletarian thugs alike ... ‘fairly bristled with lethal weaponry: revolvers, pepperbox pistols, dirks, bowie knives and slungshots.’” Kopel & Greenlee, *supra*, at 345. And although fully automatic weapons became available to Americans soon after World War I, only when “ownership spread in the civil population in the mid-to-late 1920s” did States move to restrict them. Robert J. Spitzer, *Gun Law History in the United States and Second Amendment Rights*, 80 *Law & Contemp. Probs.* 55, 68 (2017). By that time, such weapons “could be purchased as easily and legally ... as a pound of meat,” and were “readily” sold in sporting goods stores and catalogs. Spitzer, *Understanding Gun Law History*, *supra*, at 64. A 1922 advertisement for the Tommy gun proclaimed that it was already in “increasingly wide use for protection purposes by banks, industrial plants, railroads, mines, ranches, [and] plantations,” because it was the “ideal weapon for the protection” of such properties. Ellis, *supra*, at 151.

3. Petitioners' proposed common-use-only test cannot be reconciled with this historical record.

a. A common-use-only approach lacks grounding in nineteenth-century judicial decisions. *Contra* Pet'rs Br. 48; U.S. Br. 13. None of petitioners' cases struck down a law simply because the restricted weapon was commonly used by civilians for lawful purposes. And none of those cases counted weapons (or how many States had regulated weapons) in reaching their holdings.

Instead, the cases support the view that unusual dangerousness provided a basis to ban a weapon. The Tennessee Supreme Court stated that legislatures could "prohibit the wearing or keeping weapons dangerous to the peace and safety of the citizens" if they would "not contribute to the common defence," even if they were "usual in civilized warfare." *Aymette*, 21 Tenn. at 159; *see Andrews*, 50 Tenn. at 185 (same). The Arkansas Supreme Court adopted a similar test that permitted regulation of dangerous weapons unless they were "in ordinary use, *and* effective as a weapon of war, *and* useful and necessary for 'the common defense.'" *Fife v. State*, 31 Ark. 455, 458, 461 (1876) (emphases added). And the Texas Supreme Court construed the State's constitution to protect "such arms as are commonly kept" only if they were "appropriate for open and manly use in self-defense, as well as such as are proper for the defense of the State." *State v. Duke*, 42 Tex. 455, 458 (1875). Each of petitioners' cases permitted regulation of weapons that, despite being in common use, were excessively dangerous or disproportional to what was required for self-defense. That analysis is unsurprising, given that these court cases concerned weapons such as Bowie

knives and pistols that were in common use. *See supra* at 39-40.⁴

b. Petitioners’ and the federal government’s reliance on earlier sources fares no better. The English assize laws provide no basis for adopting a common-use-only test. *Cf.* U.S. Br. 10. Those laws, which were “repealed in the reign of James I,” required English citizens to obtain specific weapons “according to [their] estate and degree.” 1 William Blackstone, *Commentaries on the Laws of England* 410 (4th ed. 1770). But assize laws named specific weapons required for each social class—they did not approve possession of every weapon that was commonly used at the time. In fact, “[t]he Assize was prohibitory in that a person could own only the specified arms and armor for his particular income group.” Kopel & Greenlee, *supra*, at 228-29.

Nor can the federal government rely on Founding-era militia laws. *Cf.* U.S. Br. 10-11. Those laws often required men to purchase weapons—namely, a “good musket or firelock” or “good rifle,” Second Militia Act

⁴ The federal government’s additional authorities do not support a common-use-only test. U.S. Br. 13. *Workman* distinguished between protected “weapons of warfare to be used by the militia,” and weapons that could be regulated because they were carried “to the terror of the community and the injury of the state.” 14 S.E. at 11. *State v. Kerner*, 107 S.E. 222 (N.C. 1921), held that the Second Amendment protects only “‘arms’ as were in common use, and borne by the people as such *when [the right-to-bear-arms] provision was adopted,*” not any weapon that later became common. *Id.* at 224 (emphasis added). And *People v. Brown*, 235 N.W. 245 (Mich. 1931), states that courts should “take account of the *character* and ordinary use of weapons.” *Id.* at 246 (emphasis added). Each case thus considers factors other than contemporary “common use” in deciding whether a weapon is subject to regulation.

of 1792, ch. 33, § 1, 1 Stat. 271—precisely because they were *not* commonly owned by early Americans. Indeed, Americans’ resistance to owning the arms required by the Second Militia Act meant that only a minority of militiamen were armed according to its requirements by the War of 1812. Kevin M. Sweeney, *Firearms Ownership and Militias in Seventeenth- and Eighteenth-Century England and America*, in *A Right to Bear Arms? The Contested Role of History in Contemporary Debates on the Second Amendment* 65 (Jennifer Tucker et al. eds., 2019).

Finally, William Hawkins’s discussion of the going-armed laws does not aid petitioners’ argument. *See* Pet’rs Br. 43-44; U.S. Br. 11-12. As Hawkins explained, under the Statute of Northampton, “Persons of Quality”—that is, nobility—were “in no Danger of Offending against this Statute by wearing common Weapons ... in such Places, and upon such Occasions, in which it is common Fashion to make use of them, without causing the least Suspicion of an Intention to commit any Act of Violence or Disturbance of the Peace.” 1 Hawkins, *supra*, at 136. That sentence simply observes that particular conduct (by the right person, with the right weapon, in the right place, on the right occasion, and with the right intention) would not violate the Statute of Northampton. It does not suggest that English law protected all weapons in common use—as shown by the many statutes outlawing specific weapons because of their dangerousness. *See supra* at 11-14.

B. Modern precedents refute petitioners’ common-use-only approach.

This Court’s precedents likewise cut against petitioners’ efforts to establish “the constitutionality of

[AR-15 bans] on numbers alone.” *Barnett*, 180 F.4th at 1054.

Heller and *Bruen* hold that “the Second Amendment protects only the carrying of weapons that are those ‘in common use at the time,’ as opposed to those that ‘are highly unusual in society at large.’” *Bruen*, 597 U.S. at 47 (quoting *Heller*, 554 U.S. at 627). At most, that language suggests that “weapons that are *not* in common use can safely be said to be *outside* the ambit of the Second Amendment.” *Bianchi*, 111 F.4th at 460.

“But the logic does not work in reverse.” *Bianchi* 111 F.4th at 460. “Just because a weapon happens to be in common use does not guarantee that it falls within the scope of the right to keep and bear arms.” *Id.* Rather, a government may regulate common weaponry if it “prove[s] that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.” *Bruen*, 597 U.S. at 19. One such tradition involves the regulation of weapons—many of them commonly used—that are unusually dangerous relative to contemporary peers.

Ignoring that separate historical tradition leads to inexplicable anomalies in this Court’s cases. In *Cae-tano v. Massachusetts*, 577 U.S. 411 (2016), the Court rejected the argument that “the Second Amendment does not extend to stun guns.” *Id.* at 411 (per curiam). The parties there agreed that “approximately 200,000 civilians owned stun guns”—a number sufficient to lead the concurring Justices to describe those weapons as “widely owned.” *Id.* at 420 (Alito, J., concurring in the judgment). The problem for petitioners is that roughly as many civilians own fully automatic

machineguns—yet this Court’s cases establish that those weapons “may be banned.” *Heller*, 554 U.S. at 627; see U.S. Br. 19-20, 28. “[T]here are over 740,000 total registered machineguns in the United States.” *Bridges*, 150 F.4th at 526. Even after removing weapons “possessed by law enforcement” and “unlawfully owned guns”—which would presumably be counted under petitioners’ common-use-only test—the figure is “175,977.” *Id.*

The Court’s disparate treatment of machineguns and stun guns cannot be reconciled on a common-use-only approach. Unless the critical common-use threshold lies between 175,977 and 200,000, another consideration must separate machineguns and stun guns. The only plausible one is unusual dangerousness: machineguns are “exceedingly dangerous” because they can “kill dozens of people within a matter of seconds,” *Bridges*, 150 F.4th at 527; stun guns pose no comparable danger. Thus, this Court’s precedent already recognizes that lethality—not just commonality—carries weight when determining whether firearms regulations comport with the Second Amendment.

C. Petitioners’ common-use-only approach is conceptually infirm.

Petitioners’ common-use-only test is also theoretically unsound, doctrinally anomalous, and practically unworkable.

1. The common-use-only approach rests on the “flawed” premise that “legislatures maximally exercise[] their power to regulate.” *Rahimi*, 602 U.S. at 739-40 (Barrett, J., concurring). A responsible legislature takes time to “assess” the wisdom of regulations, enacting statutes only after “observation and experience” confirm that legislation is appropriate. *Bianchi*,

111 F.4th at 461. Connecticut, for example, passed its current AR-15 ban only after the Sandy Hook tragedy. *See supra* at 3-4. The common-use-only view penalizes States for engaging in this deliberative process and would ensure that “arms manufacturers can secure constitutional immunity for their products so long as they distribute a sufficient quantity” of arms before the excessive lethality of those weapons becomes clear. *Bianchi*, 111 F.4th at 461.

This Court has long held that a measured lawmaking process is not a source of constitutional infirmity. There is no “adverse-possession theory” of constitutional law. *NLRB v. Noel Canning*, 573 U.S. 513, 615 (2014) (Scalia, J., concurring in the judgment). As this Court recently held, “the fact that many States in the late 18th and early 19th century did not criminalize pre-quickenings abortions does not mean that anyone thought the States lacked the authority to do so.” *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 253 (2022). Likewise, there is no one-way-ratchet doctrine under the Second Amendment; the fact that some States deliberated before banning AR-15s, and others have not enacted restrictions, does not mean that all States have forever lost their authority to regulate. The Court should reject petitioners’ “‘use it or lose it’ view of legislative authority.” *Rahimi*, 602 U.S. at 740 (Barrett, J., concurring).

2. No other constitutional provision supports petitioners’ common-use-only theory of the Second Amendment. Under the First Amendment, for example, even the most “widely used” speech platforms may be regulated to advance important state interests. *TikTok, Inc. v. Garland*, 604 U.S. 56, 71, 78 (2025). There is no other constitutional doctrine where the market choices of private actors forever disable the democratic

process—and the Second Amendment is not “subject to an entirely different body of rules than the other Bill of Rights guarantees.” *McDonald v. City of Chicago*, 561 U.S. 742, 780 (2010).

Petitioners make no effort to align their test with any other constitutional doctrine; the federal government, while taking up the challenge, fails to meet it. See U.S. Br. 16. The government primarily discusses First Amendment obscenity doctrine; the Fourth Amendment’s warrant requirement; and the truism that “the common law itself is built on community customs.” *Id.* at 17. But none of those doctrines allows the commonality of a practice to prevent all regulation by democratically accountable actors. The upshot of the Fourth Amendment’s reliance on “customary” practice is simply that law enforcement must obtain a warrant to search a house. *Id.* The result of speech not being obscene is that ordinary First Amendment scrutiny applies; moreover, the Court has rejected any “fixed, uniform national standard[]” for obscenity precisely because “the people of Maine or Mississippi” need not permit “conduct found tolerable in Las Vegas,” *Miller v. California*, 413 U.S. 15, 30, 32 (1973). And “common law rights” are “defeasible by statute.” *Alden v. Maine*, 527 U.S. 706, 733 (1999). In contrast, petitioners’ proposed rule would make common use an on-off switch that automatically disables legislation in some parts of the country based on choices made in others.

Nor is the federal government’s Eighth Amendment analogy persuasive. The government suggests that the Eighth Amendment’s meaning can turn on “how many States have adopted a given type of law.” U.S. Br. 19. But the government’s cited opinion states that even where the constitutional text uses the word

“unusual,” state “consensus is probative but not conclusive.” *Baze v. Rees*, 553 U.S. 35, 53 (2008) (plurality opinion of Roberts, C.J.). And the Eighth Amendment does not limit a State’s mode of punishment due simply to the “nose count of Americans for and against” the technique. *Atkins v. Virginia*, 536 U.S. 304, 343, 346 (2002) (Scalia, J., dissenting). The Second Amendment is no different.

3. Finally, the common-use-only approach yields unworkable and absurd results—including with respect to AR-15s.

There are significant “concerns about the common-use test’s administrability.” U.S. Br. 18. If 200,000 weapons suffices for common use, see *Caetano*, 577 U.S. at 420 (Alito, J., concurring in the judgment), then a weapon is in common use if owned by 1 in every 1700 Americans. It is difficult to see how such a statistic could reliably be measured. See Graham Kalton, *Methods for Oversampling Rare Subpopulations in Social Surveys*, 35 Survey Methodology 125, 125 (2009) (discussing “major challenges in sample design” in measuring “rare populations”). Recognizing this problem, the federal government urges the Court to count States rather than weapons. See U.S. Br. 18-19. But the fact that petitioners and the government disagree on how to measure common use simply underscores the problems with their position. In any event, the government’s test is flawed on its own terms. Here, for instance, the 11 States that regulate AR-15s make up 35% of the Nation’s population. See *id.* at 20 & n.2. Yet the federal government offers no principled reason why the number of States that have banned AR-15s—rather than the percentage of Americans who live in those States—should be controlling. See *Bruen*, 597

U.S. at 67 (discounting laws enacted by jurisdictions with “minuscule ... populations”).

Both petitioners’ and the federal government’s counting methodologies are also unworkable because they “base sweeping constitutional principles upon the narrow experience of a few years.” *Atkins*, 536 U.S. at 344 (Scalia, J., dissenting) (alterations omitted). Consider the Bowie knife: Eight States or territories passed Bowie knife restrictions before 1850; seven more did before 1860; eight more did before 1870; and twelve more did between 1870 and 1900. Kopel & Greenlee, *supra*, at 298-327. It is bizarre to think that Bowie knife laws were unconstitutional if challenged in 1850 or 1860 but constitutional if challenged in 1870 or 1900. But the common-use-only rule requires that result.

Or consider the AR-15 itself. Petitioners assert that “approximately 26 million people[] currently own at least one AR-15 or similar semiautomatic rifle.” Pet’rs Br. 11. But eleven years ago, “[r]oughly five million Americans own[ed] AR-style semiautomatic rifles.” *Friedman v. City of Highland Park*, 577 U.S. 1039, 1039 (2015) (Thomas, J., dissenting from the denial of certiorari). And eleven years before that, “few civilians owned AR-15s,” *Bevis*, 85 F.4th at 1199, because federal law prohibited “manufacture, transfer, or possess[ion]” of the weapons between 1994 and 2004, *see* Pub. L. No. 103-322, § 110102(a), 108 Stat. 1796, 1996-97 (1994). Under the common-use-only approach, if Congress had extended that legislation in 2004, AR-15s would never have entered into common use—and thus could be banned today. But because a single Congress made a single policy choice, AR-15s are now in common use and cannot be regulated by any

federal or state legislature no matter how unusually dangerous they have proven to be.

That result is nonsensical: The Second Amendment's meaning is not forever fixed by the 108th Congress's choice not to reauthorize the federal AR-15 ban. The history of the AR-15 thus illustrates the "danger in inferring a settled societal consensus from statistics"—and the even greater danger of letting those statistics become "frozen into constitutional law." *Thompson v. Oklahoma*, 487 U.S. 815, 854-55 (1988) (O'Connor, J., concurring in the judgment).

* * *

In the end, petitioners have it right: "whether a type of arm is too dangerous for ordinary Americans to possess is one that the people are entitled to make." Pet'rs Br. 3. The people of Connecticut, acting through their representatives and in accordance with historical tradition, decided after the Sandy Hook massacre that AR-15s posed unacceptable dangers to the community. The Second Amendment does not prohibit Connecticut from banning an unusually dangerous weapon that has caused untold harm and suffering within the State.

CONCLUSION

The Court should affirm the judgment below.

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APPENDIX A

Bans or Prohibitive Taxes on Specific Weapons

Arkansas, An Act To Preserve the Public Peace and Prevent Crime, Act of Apr. 1, 1881, No. 96, § 3, 1881 Ark. Acts 191, 192: Any person who shall sell, barter or exchange, or otherwise dispose of, or in any manner furnish to any person *any person** any dirk or bowie knife, or a sword or a spear in a cane, brass or metal knucks, or any pistol, of any kind whatever, except such as are used in the army or navy of the United States, and known as the navy pistol, or any kind of cartridge, for any pistol, or any person who shall keep any such arms or cartridges for sale, shall be guilty of a misdemeanor.

Alabama, An Act To Suppress the Use of Bowie Knives, Act of June 30, 1837, No. 11, § 2, 1837 Ala. Acts 7, 7: *And be it further enacted*, That for every [Bowie knife], sold or given, or otherwise disposed of in this State, the person selling, giving or disposing of the same, shall pay a tax of one hundred dollars, to be paid into the county Treasury, and if any person so selling, giving or disposing of such weapon, shall fail to give in the same in his list of taxable property, he shall be subject to the pains and penalties of perjury.

Dakota Territory, An Act To Establish the Penal Code for the Territory of Dakota, Act of Feb. 7, 1877, ch. 38, § 455: Every person who manufactures or causes to be manufactured, or sells, or offers or keeps for sale, or gives or disposes of any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a misdemeanor.

* Repetition appears in the original.

Florida, Act of Feb. 10, 1838, No. 24, § 1, 1838 Fla. Terr. Laws 424: *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act, it shall not be lawful for any person or persons in this Territory to vend dirks, pocket-pistols, sword-canes, or bowie-knives, until he or they shall have first paid to the treasury of the county in which he or they intend to vend weapons, a tax of two hundred dollars per annum; and all persons carrying said weapons openly, shall pay to the officer aforesaid a tax of ten dollars per annum; and it shall be the duty of said officer to give the parties so paying a written certificate, stating that they have complied with the provisions of this act: four-fifths of all moneys so collected to be applied by the county courts to county purposes, the other fifth to be paid to the prosecuting attorney.

Florida, Of Offenses Against the Public Peace, ch. 49, § 12, 1868 Fla. Laws 250, 253: Whoever manufactures, or causes to be manufactured, or sells, or exposes for sale, any instrument or weapon of the kind usually known as slung shot, or metallic knuckles, shall be punished by fine not less than fifty dollars, or by imprisonment in the county jail not exceeding six months.

Georgia, An Act To Guard and Protect the Citizens of this State Against the Unwarrantable and Too Prevalent Use of Deadly Weapons, Act of Dec. 25, 1837, § 1, 1837 Ga. Laws 90, 90: *Be it enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and it is hereby enacted by the authority of the same*, That from and after the passage of this act, it shall not be lawful for any merchant, or vender of wares or merchandize in

this State, or any other person or persons whatsoever, to sell, or offer to sell, or to keep, or have about their person or elsewhere, any of the hereinafter described weapons, to wit: Bowie, or any other kind of knives, manufactured and sold for the purpose of wearing, or carrying the same as arms of offence or defence, pistols, dirks, sword canes, spears, &c., shall also be contemplated in this act, save such pistols as are known and used, as horseman's pistols, &c.

Illinois, An Act To Regulate the Traffic in Deadly Weapons, and To Prevent the Sale of Them to Minors, Act of Apr. 16, 1881, § 1, 1881 Ill. Laws 73, 73: *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That whoever shall have in his possession, or sell, give or loan, hire or barter, or whoever shall offer to sell, give, loan, hire or barter, to any person within this state, any slung-shot or metallic knuckles, or other deadly weapon of like character, or any person in whose possession such weapons shall be found, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten dollars (\$10) nor more than two hundred dollars (\$200).

Kentucky, An Act To Prevent the Selling and Using of Certain Weapons, Act of Mar. 10, 1856, ch. 636, § 1, 1856 Ky. Acts 96, 96: That any person or persons who may hereafter be found guilty of vending, buying, selling, or dealing in the weapons popularly known as colts, brass knuckles, slung-shots, or any imitation or substitute therefor, shall forfeit and pay the sum of twenty-five dollars for each and every offense so committed—one-half thereof to be applied to the jury fund, the other to the prosecutor.

Massachusetts, An Act in Relation to the Carrying of Slung Shot, Act of Apr. 15, 1850, ch. 194, § 2, 1850 Mass. Acts 401, 401: Any person who shall, within this State, hereafter manufacture, or cause to be manufactured, or sell, or expose for sale, any instrument or weapon of the kind usually known as slung shot, shall be punished therefor by a fine not less than fifty dollars, or by imprisonment in the common jail or house of correction, for a term not exceeding six months.

Minnesota, Penal Code of the State of Minnesota, tit. 12, § 333 (1885): Making, selling, etc., dangerous weapons.—A person who manufactures or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as slung-shot, sand-club, or metal knuckles, or who, in any city of this state, without the written consent of a magistrate, sells or gives any pistol or firearm to any person under the age of eighteen (18) years, is guilty of a misdemeanor.

New York, An Act To Prevent the Manufacture, Use and Sale of Slung Shot, Act of Apr. 7, 1849, ch. 278, § 1, 1849 N.Y. Laws 403, 403: Any person who shall, within this state, hereafter manufacture or cause to be manufactured, or sell, or expose, or keep for sale or gift, or part with any instrument or weapon of the kind usually known as slung shot, or of any similar kinds shall be liable to indictment for misdemeanor, and on conviction, shall be punished by fine of not less than two hundred and fifty, nor over five hundred dollars, or by imprisonment in a county jail for not less than six months, nor over two years.

Oklahoma, Of Crimes Against the Public Health and Safety, ch. 25, art. 38, § 18, 1890 Okla. Sess. Laws 412, 475-76: Every person who manufactures or causes to be manufactured, or sells or offers or keeps for sale, or gives or disposes of any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a misdemeanor.

Tennessee, An Act To Suppress the Sale and Use of Bowie Knives and Arkansas Tooth Picks in This State, Act of Jan. 27, 1838, ch. 137, § 1, 1838 Tenn. Pub. Acts 200, 200: *Be it enacted by the General Assembly of the State of Tennessee*, That if any merchant, . . . shall sell or offer to sell, or shall bring into this State, for the purpose of selling, giving or disposing of in any other manner whatsoever, any Bowie knife or knives, or Arkansas tooth picks . . . such merchant ... shall be guilty of a misdemeanor, and upon conviction thereof upon indictment or presentment, shall be fined in a sum not less than one hundred dollars, nor more than five hundred dollars, and shall be imprisoned in the county jail for a period not less than one month nor more than six months.

Tennessee, An Act To Prevent the Sale of Pistols, Act of Mar. 14, 1879, ch. 96, § 1, 1879 Tenn. Pub. Acts 135, 135-36: *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be a misdemeanor for any person to sell, or offer to sell, or to bring into the State for the purpose of selling, giving away, or otherwise disposing of belt or pocket pistols, or revolvers, or any other kind of pistols, except army or navy pistol; *Provided* that this Act shall not be enforced against any persons now having license to sell

such articles until the expiration of such present license.

Vermont, An Act Prohibiting the Manufacture, Sale and Use of Slung Shot, Act of Nov. 12, 1849, No. 36, § 1, 1849 Vt. Acts & Resolves 26, 26: Any person who shall, within this State, hereafter manufacture, or cause to be manufactured, or sell, expose or keep for sale or gift, or part with any instrument or weapon of the kind usually known as slung shot, or of any similar kinds, shall be deemed guilty of a misdemeanor, and be punished therefor by a fine, not exceeding five hundred dollars nor less than two hundred dollars, or by imprisonment in the county jail for a term not exceeding two years.

APPENDIX B

Public Carry Bans on Specific Weapons

Arizona, An Act Defining and Punishing Certain Offenses Against the Public Peace, Act of Mar. 18, 1889, No. 13, §§ 1-2, 1889 Ariz. Sess. Laws 30, 30: Section 1. If any person within any settlement, town, village or city within this Territory shall carry on or about his person, saddle, or in his saddlebags, any pistol, dirk, dagger, slung shot, sword-cane, spear, brass knuckles, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and in addition thereto, shall forfeit to the County in which he is convicted, the weapon or weapons so carried.

Sec. 2. The preceding article shall not apply to a person in actual service as a militiaman, nor as a peace officer or policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one[']s own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack upon legal process.

Arkansas, An Act To Preserve the Public Peace and Prevent Crime, Act of Apr. 1, 1881, No. 96, § 1, 1881 Ark. Acts 191, 191: That any person who shall wear or carry, in any manner whatever, as a weapon, any dirk or bowie knife, or a sword, or a spear in a cane, brass or metal knucks, razor, or any pistol of any kind whatever, except such pistols as are used in the army or navy of the United States, shall be guilty of a

misdemeanor; *Provided*, That officers, whose duties require them to make arrests, or to keep and guard prisoners, together with the persons summoned by such officers, to aid them in the discharge of such duties, while actually engaged in such duties, are exempted from the provisions of this act. *Provided, further*, That nothing in this act be so construed as to prohibit any person from carrying any weapon when upon a journey, or upon his own premises.

Dakota Territory, An Act To Establish the Penal Code for the Territory of Dakota, Act of Feb. 7, 1877, ch. 38, § 456. Carrying or using same. Every person who carries upon his person, whether concealed or not, or uses or attempts to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a felony.

Hawaii, An Act To Prevent the Carrying of Deadly Weapons, § 1, 1852 Haw. Sess. Laws 19, 19: Any person not authorized by law, who shall carry, or be found armed with, any bowie-knife, sword-cane, pistol, air-gun, slung-shot or other deadly weapon, shall be liable to a fine of no more than Thirty, and no less than Ten Dollars, or in default of payment of such fine, to imprisonment at hard labor, for a term not exceeding two months and no less than fifteen days, upon conviction of such offense before any District Magistrate, unless good cause be shown for having such dangerous weapons; and any such person may be immediately arrested without warrant by the Marshal or any Sheriff, Constable or other officer or person and be lodged in prison until he can be taken before such Magistrate.

Idaho, An Act Regulating the Use and Carrying of Deadly Weapons in Idaho Territory, Act of Feb. 4,

1889, § 1, 1888 Idaho Sess. Laws 23, 23: That it is unlawful for any person, except United States officials, officials of Idaho Territory, County officials, Peace officers, Guards of any jail, and officers or employees of any Express Company on duty, to carry, exhibit or flourish any dirk, dirk-knife, sword, sword-cane, pistol, gun or other deadly weapons, within the limits or confines of any city, town or village or in any public assembly of Idaho Territory. Every person so doing is guilty of a misdemeanor and is punishable by fine not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than twenty days nor more than fifty days, or by both such fine and imprisonment.

Indiana, An Act To Prevent Carrying Concealed or Dangerous Weapons, and To Provide Punishment Therefor, Act of Feb. 23, 1859, ch. 78, § 1, 1859 Ind. Acts 129, 129: *Be it enacted by the General Assembly of the State of Indiana*, That every person not being a traveler, who shall wear or carry any dirk, pistol, bowie-knife, dagger, sword in cane, or any other dangerous or deadly weapon concealed, or who shall carry or wear any such weapon openly, with the intent or avowed purpose of injuring his fellow man, shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars.

Maryland, An Act Providing for the Punishment of Carrying Dangerous or Deadly Weapons, Act of Apr. 7, 1886, ch. 375, § 1, 1886 Md. Laws 602, 602: Every person not being a conservator of the peace entitled or required to carry such weapon as a part of his official equipment, who shall wear or carry any pistol, dirk-knife, bowie-knife, slung-shot, billy, sand-club, metal knuckles, razor or any other dangerous or deadly weapon of any kind whatsoever, (penknives excepted)

concealed upon or about his person, and every person who shall carry or wear any such weapon openly with the intent or purpose of injuring any person, shall, upon conviction thereof, be fined not more than five hundred dollars or be imprisoned not more than six months in jail or the House of Correction.

Minnesota, Penal Code of the State of Minnesota, tit. 12, § 334 (1885): Carrying, using, etc., certain weapons.—A person who attempts to use against another, or who, with intent so to use, carries, conceals or possesses any instrument or weapon of the kind commonly known as slung-shot, sand-club or metal knuckles, or a dagger, dirk, knife, pistol or other firearm, or any dangerous weapon, is guilty of a misdemeanor.

Nebraska, An Act To Adopt and Establish a Criminal Code for the Territory of Nebraska, ch. 1, § 135, 1858 Neb. Laws 41, 69: . . . And if any person shall have upon him any pistol, gun, knife, dirk, bludgeon or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined in a sum not exceeding one hundred dollars, or imprisoned not exceeding three months.

New Mexico, An Act Prohibiting the Carrying of Weapons, Concealed or Otherwise, Act of Feb. 2, 1860, §§ 1-2, 1859-1860 N.M. Laws 94, 94: Section 1. That, from and after the passage of this act, it shall be unlawful for any person to carry concealed weapons on their persons, of any class of pistols whatever, bowie knife (cuchillo de cinto), Arkansas toothpick, Spanish dagger, slung-shot, or any other deadly weapon, of whatever class or description they may be, no matter by what name they may be known or called, under the

penalties and punishment which shall hereinafter be described.

Sec. 2. Be it further enacted: That if any person shall carry about his person, either concealed or otherwise, any deadly weapon of the class and description mentioned in the preceding section, the person or persons who shall so offend, on conviction, which shall be by indictment in the district court, shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars, at the discretion of the court trying the cause, on the first conviction under this act; and for the second conviction, the party convicted shall be imprisoned in the county jail for a term of not less than three months, nor for more than one year, also at the discretion of the court trying the cause.

New Mexico, An Act To Prohibit the Unlawful Carrying and Use of Deadly Weapons, Act of Feb. 18, 1887, ch. 30, §§ 1, 8, 1886 N.M. Laws 55, 55: That any person who shall hereafter carry a deadly weapon, either concealed or otherwise, on or about the settlements of this territory, except it be in his or her residence, or on his or her landed estate, and in the lawful defense of his or her person, family or property, the same being then and there threatened with danger, or except such carrying be done by legal authority, upon conviction thereof shall be punished by a fine of not less than fifty dollars, nor more than three hundred, or by imprisonment not less than sixty days, nor more than six months, or by both such fine and imprisonment, in the discretion of the court or jury trying the same.

Sec. 8. Deadly weapons, within the meaning of this act, shall be construed to mean all kinds and classes of pistols ... any and all kinds of daggers, bowie knives,

poniards, butcher knives, dirk knives, and all such weapons with which dangerous cuts can be given, or with which dangerous thrusts can be inflicted, including sword canes, and any kind of sharp pointed canes; as also slung shots, bludgeons or any other deadly weapons with which dangerous wounds can be inflicted.

New York, An Act To Prevent the Manufacture, Use and Sale of Slung Shot, Act of Apr. 7, 1849, ch. 278, § 2, 1849 N.Y. Laws 403, 404: Any person who shall, within this state, hereafter carry, or be found in the possession of, or use, or attempt to use, as against any other person, any instrument or weapon of the kind usually known as slung shot or of any similar kind, shall be liable to indictment for felony, and on conviction shall be punished by imprisonment in a state's prison for a term not less than one, nor more than five years.

New York, N.Y. Penal Code of 1881, ch. 676, §§ 410-411: A person who attempts to use against another, or who, with intent so to use, carries, conceals or possesses, any instrument or weapon of the kind commonly known as the slung-shot, billy, sand-club or metal knuckles, or a dagger, dirk, or dangerous knife, is guilty of a felony. . . . The possession, by any person other than a public officer, of any of the weapons specified in the last section, concealed or furtively carried on the person, is presumptive evidence of carrying, or concealing, or possessing, with intent to use the same in violation of that section.

North Dakota, N.D. Penal Code, Crimes Against the Public Health and Safety, ch. 40, § 7312, 1895 N.D. Rev. Codes 1293: Carrying or using slung shot. Every person who carries upon his person, whether concealed

or not, or uses or attempts to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a felony.

Oklahoma, Of Crimes Against the Public Health and Safety, ch. 25, art. 38, § 19, 1890 Okla. Sess. Laws 412, 475-76: Every person who carries upon his person, whether concealed or not, or uses or attempts to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a felony.

Oklahoma, Concealed Weapons, ch. 25, art. 47, §§ 2,5, 1890 Okla. Sess. Laws 412, 495: Section 2. It shall be unlawful for any person in the Territory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided. ...

Section 5. Persons shall be permitted to carry shot-guns or rifles for the purpose of hunting, having them repaired, or for killing animals, or for the purpose of using the same in public muster or military drills, or while travelling or removing from one place to another, and not otherwise.

Tennessee, An Act To Preserve the Peace and Prevent Homicide, Act of June 11, 1870, ch. 13, § 1, 1869-1870 Tenn. Pub. Acts 28, 28: *Be it enacted by the General Assembly of the State of Tennessee*, That it shall not be lawful for any person to publicly or privately carry a dirk, sword-cane, Spanish stiletto, belt or pocket pistol or revolver. Any person guilty of a violation of this section shall be subject to presentment or indictment, and on conviction, shall pay a fine of not less than ten nor more than fifty dollars, and be imprisoned at the discretion of the

Court for a period of not less than thirty days nor more than six months, and shall give bond in a sum not exceeding one thousand dollars to keep the peace for the next six months after such conviction.

Tennessee, An Act To Amend the Criminal Laws of This State Upon the Subject of Carrying Concealed Weapons, ch. 186, § 1, 1879 Tenn. Pub. Acts 231, 231: *Be it enacted by the General Assembly of the State of Tennessee*, That the Act of 1871, Chapter 90, be and is hereby amended, that hereafter it shall not be lawful for any person to carry, publicly or privately, any dirk, razor concealed about his person, sword cane, [S]panish stiletto, belt or pocket pistol, revolver, or any kind of pistol, except the army or navy pistol, usually used in warfare, which shall be carried openly in the hand, or loaded cane, slung-shot, brass knucks; and any person guilty of a violation of this Act shall be subject to presentment or indictment, and on conviction shall be fined fifty dollars, and imprisoned in the County jail of the County where the offense was committed, the imprisonment only in the discretion of the Court; *Provided*, the defendant shall give good and sufficient security for all the costs, fine, and any jail fees that may accrue by virtue of the imprisonment of the defendant.

Texas, An Act To Regulate the Keeping and Bearing of Deadly Weapons, Act of Apr. 12, 1871, ch. 34, § 1, 1871 Tex. Gen. Laws 25, 25: *Be it enacted by the Legislature of the State of Texas*, That any person carrying on or about his person, saddle, or in his saddle bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purposes of offense or defense, unless he has reasonable grounds for fearing an unlawful attack on his person, and that

such ground of attack shall be immediate and pressing; or unless having or carrying the same on or about his person for the lawful defense the State, as a militiaman in actual service, or as a peace officer or policeman, shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be punished by fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit to the county the weapon or weapons so found on or about his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not exceeding sixty days; and in every case of fine under this section the fines imposed and collected shall go into the treasury of the county in which they may have been imposed: *provided*, that this section shall not be so construed as to prohibit any person from keeping or bearing arms on his or her own premises, or at his or her own place of business, nor to prohibit sheriffs or other revenue officers, and other civil officers, from keeping or bearing arms while engaged in the discharge of their official duties, nor to prohibit persons traveling in the State from keeping or carrying arms with their baggage; *provided further*, that members of the Legislature shall not be included under the term “civil officers” as used in this act.

Vermont, An Act Prohibiting the Manufacture, Sale and Use of Slung Shot, Act of Nov. 12, 1849, No. 36, § 2, 1849 Vt. Acts & Resolves 26, 26: Any person who shall, within this State, hereafter carry, or be found in the possession of, use or attempt to use, as against any other person, any instrument, or weapon, of the kind usually known as slung shot, or of any similar kinds, shall be deemed guilty of felony, and be

punished therefor by imprisonment in the State prison for a term not exceeding five years.

West Virginia, An Act Adding Additional Sections Thereto for the Punishment of Unlawful Combinations and Conspiracies To Injure Persons or Property, ch. 135, § 1, 1882 W. Va. Acts 421-22 (amending W. Va. Code ch. 148, § 7): If a person carry about his person any revolver or other pistol, dirk, bowie knife, razor, slung shot, billy, metallic or other false knuckles, or any other dangerous or deadly weapon of like kind or character, he shall be guilty of a misdemeanor, and fined not less than twenty-five nor more than two hundred dollars, and may, at the discretion of the court, be confined in jail not less than one, nor more than twelve months; and if any person shall sell or furnish any such weapon as is hereinbefore mentioned to a person whom he knows, or has reason, from his appearance or otherwise, to believe to be under the age of twenty-one years, he shall be punished as hereinbefore provided; but nothing herein contained shall be so construed as to prevent any person from keeping or carrying about his dwelling house or premises any such revolver or other pistol, or from carrying the same from the place of purchase to his dwelling house, or from his dwelling house to any place where repairing is done, to have it repaired, and back again. And if upon the trial of an indictment for carrying any such pistol, dirk, razor or bowie knife, the defendant shall prove to the satisfaction of the jury that he is a quiet and peaceable citizen, of good character and standing in the community in which he lives, and at the time he was found with such pistol, dirk, razor or bowie knife, as charged in the indictment, he had good cause to believe and did believe that he was in danger of death or great bodily

harm at the hands of another person, and that he was, in good faith, carrying such weapon for self defense and for no other purpose, the jury shall find him not guilty. But nothing in this section contained shall be so construed as to prevent any officer charged with the execution of the laws of the state from carrying a revolver or other pistol, dirk or bowie knife.

Wyoming, An Act Defining Crimes, Regulating Criminal Procedure and for Other Purposes, ch. 73, § 96, 1890 Wyo. Sess. Laws 127, 140: Every person, not being a traveler, who shall wear or carry any dirk, pistol, bowie-knife, dagger, sword-in-cane or any other dangerous or deadly weapon concealed, or who shall carry or wear any such weapon openly, with the intent or avowed purpose of injuring his fellow-man, shall be fined in any sum not exceeding one hundred dollars.