Nos. 25-238, 25-566

In the Supreme Court of the United States

CUTBERTO VIRAMONTES, *et al.*,
Petitioners,
v.

COOK COUNTY, ILLINOIS, *et al.*,
Respondents.

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

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

On Writs of Certiorari to the United States Courts of Appeals for the Seventh and Second Circuits

BRIEF FOR THE COOK COUNTY RESPONDENTS

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PARTIES TO THE PROCEEDING

Petitioners are Cutberto Viramontes, Christopher Khaya, Firearms Policy Coalition, Inc., and Second Amendment Foundation. Petitioners were plaintiffs in the district court and plaintiffs-appellants in the court of appeals.

Respondents are Cook County, Illinois, Toni Preckwinkle, in her official capacity as County Board President and Chief Executive Officer of Cook County, and Thomas Dart, in his official capacity as Sheriff of Cook County. Respondents were defendants in the district court and defendants-appellees in the court of appeals.

Respondent Eileen O'Neill Burke, in her official capacity as State's Attorney for Cook County, was substituted as a defendant-appellee by the court of appeals for Kimberly M. Foxx, who previously held the position and was a defendant in the district court and defendant-appellee in the court of appeals. *See* Order, *Viramontes v. County of Cook*, No. 24-1437 (7th Cir. June 6, 2025), Dkt. 59.

INTRODUCTION

The Second Amendment secures the right to keep and bear arms, but like other rights enshrined in our Constitution, it is not absolute. The Framers did not intend to permit the possession or use of "any weapon whatsoever in any manner whatsoever and for whatever purpose." *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008). This principle is deeply rooted in our Nation's history, which is replete with common-sense regulations of weapons that are exceptionally dangerous, lethal, and prone to misuse. When weapons are introduced into society that have the capability to perpetrate some of our most tragic and frightening crimes, from mass shootings to assassination attempts, democratically elected legislators are permitted to respond with appropriate regulation.

STATEMENT OF THE CASE

A. Factual and Legal Background

1. *The AR-15's Military Origin*. In the late 1950s, General William G. Wyman, the Commanding General of the U.S. Continental Army Command, determined, as part of the Cold War arms race, that American soldiers needed lighter military rifles that could fire rapidly, accurately, and were easy to control. Dallas T. Durham, *The M-16: Tradition, Innovation, and Controversy*, U.S. Army Command & Gen. Staff Coll. (2021). He asked gun manufacturers to develop a combat rifle that would meet these specifications and

penetrate a steel helmet and body armor at 500 yards. JA55. The ArmaLite Corporation heeded the call, creating a rifle with both semiautomatic and automatic firing capability called the AR-15. *Id.*

Comprehensive testing of the weapon led the U.S. military to conclude in 1962 that the AR-15 was "superior in virtually all respects" to competing military weapons. Advanced Rsch. Projects Agency, Field Test Report, AR-15 Armalite Rifle (Aug. 20, 1962). By 1963, the U.S. military had purchased over 100,000 AR-15s, adopted it as a standard issue military rifle, and gave it a military designation—the M-16. JA55; *see also Bianchi v. Brown*, 111 F.4th 438, 454 (4th Cir. 2024) (en banc).

When the AR-15 entered the civilian market, the weapon was manufactured to fire only in semi-automatic mode, making it the "civilian version" of the M-16. *Staples v. United States*, 511 U.S. 600, 603 (1994). The primary difference between the AR-15 and the M-16 is the M-16's capacity for automatic fire. Otherwise, both weapons have the same performance characteristics and share "the same core design," "the same patented operating system," "the same ammunition," "the same effective range," "the same muzzle velocity," and deliver "the same kinetic energy." *Bevis v. City of Naperville*, 85 F.4th 1175, 1195-96 (7th Cir. 2023); *accord* JA55-56.

Both weapons have combat-functional features, a pistol grip that supports accuracy and fast reload, and the ability to use a detachable 30-round magazine to

facilitate prolonged firefights. *Bianchi*, 111 F.4th at 455. Both weapons can effectively fire at the exact same rate in semiautomatic mode. E. Gregory Wallace, *"Assault Weapon" Lethality*, 88 Tenn. L. Rev. 1, 21-22, 26 (2020); Dep't of the Army, *FM 3-22.9, Rifle Marksmanship: M16-/M4-Series Weapons* 2-1 (2008).

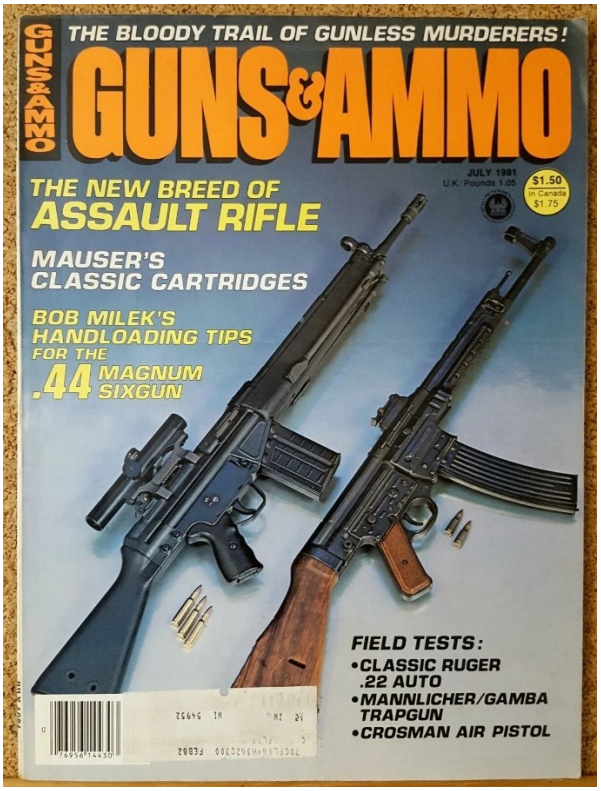
U.S. Army soldiers are instructed that semiautomatic fire is "[t]he most important firing technique during fast-moving, modern combat," emphasizing that it is "surprising how devastatingly accurate rapid semiautomatic fire can be." *Id.* at 7-8, 7-9. The Army thereby advises soldiers that the best version of the M-16 is functionally the AR-15. *See id.* at 7-9, 7-13.

In combat, it is exceedingly rare to engage in fully automatic firing. (Expert Report of Ryan Busse, App. 535, *Capen v. Campbell*, No. 24-1061 (1st Cir.). One decorated U.S. Navy SEAL who engaged in a decade of combat, including the 2011 Osama bin Laden raid, explained that he "'[n]ever once fired full auto.'" *Bianchi*, 111 F.4th at 456 (internal citation omitted).

For decades, the AR-15 was acknowledged for what it was—a weapon of war—and advertisements trumpeted that AR-15s were manufactured in the same factory and on the same production line as the world-famous M-16. Gordon L. Rottman et al., *The M16* 37-38, 43 (2011).

By the 1980s, more gun dealers began selling the AR-15 to the public. Implicitly referencing the AR-15

and other firearms with a military origin, the firearms industry referred to them as assault rifles or assault weapons. JA18. A 1981 publication is representative:



Guns & Ammo (July 1981).

As members of the public increasingly purchased AR-15 platform weapons, mass shootings that resulted in numerous casualties also increased. In 1989, for example, a man fired 105 rounds from a semiautomatic AK-47 style rifle at 300 school children enjoying recess at Cleveland Elementary School, leaving 5 dead and 31 injured in just two minutes. Nelson Kempsky et al., *A Report to Att'y Gen. John K.*

Van de Kamp on Patrick Edward Purdy and the Cleveland School Killings 5, 8 (1989), https://perma.cc/VQ68-VENR. In 1994, a former airman killed 4 and wounded 23 people with an AK-47 at the Fairchild Air Force Base hospital. *See An Airman's Revenge: 5 Minutes of Terror*, N.Y. Times (June 22, 1994).

Ownership of such weapons threatened public safety in Cook County as well. In 1992, 7-year-old Dantrell Davis was walking to school with his mother when he was killed by a sniper armed with an AR-15 who fired a .223 round from the 10th-floor window of a high-rise apartment building in Chicago. The shooter was aiming at someone in another building approximately 350 yards away, but Dantrell was left dead on the ground, blood pooling around his head, his mother powerless to save him. *See People v. Garrett*, 658 N.E. 2d 1216, 1218-20 (Ill. App. Ct. 1995).

The velocity of a bullet fired from an AR-15 creates maximum injury potential, including fractured bones, amputations, multiple surgeries, massive blood transfusions, and ultimately, more casualties. JA13, 16; Cameron McWhirter & Zusha Elinson, *American Gun: The True Story of the AR15* 67 (2023). The AR-15 fires a .223 caliber bullet at 3,200 feet per second, ensuring that the bullet will go unstable faster, "fragment and mushroom" inside the human body, and create a large internal wound cavity. *Nat'l Ass'n for Gun Rts. v. Lamont*, 153 F.4th 213, 239-40 (2d Cir. 2025) (internal citation and quotation marks omitted).

AR-15s "were designed to achieve a simple goal: fire a lot of bullets fast to kill or maim as many enemy soldiers as possible." McWhirter & Elinson, *supra*, at 41. Although the weapon constitutes (at most) 3-5% of firearms in civilian circulation, *see* JA20, it is used in 25% of mass shootings that involve at least four fatalities, *see Bianchi*, 111 F.4th at 456.

Studies have estimated that AR-15s have been used to kill 13-20% of police officers who died in the line of duty. *Id*. at 457-58. Standard issue soft armor worn by most police officers will not protect them from a .223 round. Even when an officer is wearing hard armor (which is exceptionally heavy, significantly impairs mobility, and is cost-prohibitive), it only protects the officer's chest and back. Officers are at substantial risk of death if they are struck by AR-15 gunfire anywhere else. *Id.*; JA43.

2. *Cook County's Ordinance and Other Similar Regulations*. Cook County is the second-largest county in the country and is home to over five million people. It includes Chicago and 133 other municipalities. Every day, there are festivals, concerts, sporting events, community gatherings and large family backyard parties that are susceptible to mass casualty scenarios. The AR-15's ability to travel through doors and walls coupled with its long-range lethality puts Cook County's citizens at risk.

In 1993, Cook County, like other jurisdictions, responded to this risk by enacting assault weapons regulations. *See* Cook County Ordinance No. 93-O-37;

see also 1989 Cal. Stat. ch. 19; 1990 N.J. Sess. Law Serv. ch. 32; 1993 Conn. Pub. Acts 93-306; Daniel Abrams, *Ending the Other Arms Race: An Argument for a Ban on Assault Weapons*, 10 Yale L. & Pol'y Rev. 488, 489 & n.12 (1992) (citing Richard Tapscott, *Schaefer Lobbies Governors for U.S. Ban on Assault Weapons*, Wash. Post (Aug. 18, 1991)). The County recognized that assault weapons are "military style" firearms with unique capability for use in crime, a particular threat in a jurisdiction that already struggled with gun violence. Cook County Ordinance No. 93-O-37. In addition to posing an immense threat to police officers, Cook County recognized that ready access to assault weapons presented an acute threat to public safety. *Id.*

Congress shared these concerns, and a year later, enacted a federal assault weapons ban as part of the Violent Crime Control and Law Enforcement Act of 1994. *See* Pub. L. No. 103-322, § 110102, 108 Stat. 1796, 1996-98 (1994). Three U.S. Presidents urged this enactment, citing the problem of mass shootings. Ltr. from Gerald R. Ford, Jimmy Carter, and Ronald Reagan to Members of the U.S. House of Representatives (May 3, 1994). This law was in effect until it expired by its terms in 2004. *See* 108 Stat. at 2000.

Cook County then amended its law to include firearms encompassed by the features-based test in the federal ban. Cook County Ordinance No. 06-O-50. The Ordinance was renamed the "Blair Holt Assault

Weapons Ban" to honor a Chicago high school student who was killed while protecting his friend after a gunman opened fire on a public transit bus. In 2013, the Ordinance was again amended to update the list of prohibited weapons and increase penalties. Cook County Ordinance No. 13-O-32. Today, the ban is codified in the County's Code of Ordinances, at Sections 54-210 through 215 (all together, the "Ordinance").

The Ordinance is limited to "assault weapons" that are strictly defined as "semiautomatic rifle[s]" able to accept a detachable large capacity magazine and one or more of certain military-style features, such as a folding or telescoping stock, a pistol grip without a stock, a barrel shroud, or a muzzle brake. Cook County, Ill., Code of Ordinances §§ 54-211, 54-212. The Ordinance makes it unlawful to "manufacture, sell, offer or display for sale, give, lend, transfer ownership of, acquire, carry or possess any assault weapon." *Id.* § 54-212(a). Specific firearms are outlawed under the Ordinance, including the "AK-47," "AR-15," "Bushmaster XM15," "Bushmaster Carbon 15," "Bushmaster MOE series," "ArmaLite M15," "Armalite M15-T," and "Olympic Arms PCR." *Id.* § 54-211(7) (hereafter AR-15 platform weapons).

The Ordinance exempts law enforcement officers, members of the armed forces, government employees, and persons "transporting an assault weapon firearm...while engaged in interstate travel." *Id.* § 54-212(a), 214(b). Firearms that are antique, inoperable,

and designed for Olympic target shooting events are not covered by the Ordinance. *Id.* § 54-211. Persons violating the Ordinance are subject to a fine between $5,000.00 and $10,000.00 and may be sentenced to a maximum of six months' imprisonment. *Id.* § 54-214(a).

Cook County is one of many state governments that ban AR-15 platform weapons, including California, Connecticut, Delaware, Illinois, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Virginia, and Washington.[1] Cities such as Buffalo, Chicago, Dayton, Denver, Indianapolis, Minneapolis, New York, Philadelphia, Pittsburgh, Rochester, and Washington, D.C.[2] have also enacted regulations.

B. Procedural History

In August 2021, Petitioners brought a civil action under 42 U.S.C. § 1983 against Cook County and its officials. Petitioner Cutberto Viramontes wants to

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[1] *See* Cal. Penal Code §§ 30600, 30605; Conn. Gen. Stat §§ 53-202b, 53-202c; Del. Code Ann. § 1466; 720 Ill. Comp. Stat. § 5/24-1.9(b)-(c); Md. Code Crim. Law § 4-303; Mass. Gen. Laws ch. 140, § 131M(a); N.J. Stat. Ann. §§ 2C:39-5(f), 2C:58-5(a)-(b); N.Y. Penal Law §§ 265.02(7), 265.10; R.I. Gen. Laws § 11-47.2-2; Va. Code § 18.2-287.4.1(B); Wash Rev. Code § 9.41.390.

[2] *See* Buffalo, N.Y., Code § 180-1(F); Chi., Ill., Mun. Code § 8-20-075; Dayton, Ohio, Code of Ordinances § 138.25; Denver, Colo., Mun. Code § 38-121(c); Indianapolis, Ind., Code § 451-7; Minneapolis, Minn., Code of Ordinances § 393.85; New York, N.Y., Admin. Code § 10-303.1; Philadelphia, Pa., Code § 10-821(b)(3); Pittsburgh, Pa., Code of Ordinances § 696A.02; Rochester, N.Y., Code § 47-5(F); Washington, D.C., Code § 7-2502.02(a)(6).

own a Smith & Wesson M & P 15 rifle and Petitioner Christopher Khya wants an Israeli Military Industries Galil semiautomatic rifle. JA4-5. Petitioners contend that the Ordinance on its face violates the Second Amendment because it precludes ownership of an "Arm" that is in common use in many other jurisdictions across the country.

Following the completion of discovery, the parties filed cross-motions for summary judgment. Pet. App. 3a, 7a. The district court granted the County's motion and denied Petitioners', relying on the Seventh Circuit's then-recent opinion declining to enjoin assault weapons bans by the State of Illinois, the City of Chicago, and Cook County. *See id.* 7a (citing *Bevis*, 85 F.4th 1175).

The Seventh Circuit affirmed, relying on *Bevis*. *See id.* 1a. In upholding the Ordinance, the Seventh Circuit adhered to the approach taken by all but one of the circuits to address the issue. "Using one or another label—dangerous and unusual, unusually dangerous, especially dangerous, particularly capable of unprecedented lethality—...courts have coalesced around a largely overlapping set of historical regulations imposing targeted restrictions on weapons whose danger and lethality stand out." *Barnett v. Raoul*, 180 F.4th 1035, 1047 (7th Cir. 2026) (cleaned up); *accord Capen v. Campbell*, 134 F.4th 660 (1st Cir. 2025); *Lamont*, 153 F.4th at 213; *Bianchi*, 111 F.4th at 438. Only the Third Circuit, in a deeply divided decision, has disagreed. *Ass'n of N.J. Rifle & Pistol*

Clubs, Inc. v. Att'y Gen. N.J. ("*ANJRPC*"), 183 F.4th 211 (3d Cir. 2026) (en banc).

SUMMARY OF ARGUMENT

The Second Amendment does not preclude Cook County from banning AR-15 platform weapons given their exceptional danger, lethality, and threat to public safety.

I. Cook County's ban passes constitutional muster because AR-15 platform weapons are offensive weapons of war designed for maximum lethality and are not customarily used for self-defense. The purpose and operation of the ban is consistent with our Nation's historical tradition and accounts for the exceptional dangerousness of these technologically advanced weapons that have sparked immense societal concern.

A. There is a robust historical tradition of regulating unusually dangerous weapons that compromise public safety. Indeed, legislators have long imposed regulations on the sale, use, and possession of weapons to respond to the specific type of harm they caused. Such regulations, which long predate the founding, have included outright bans and other restrictions on exceptionally dangerous weapons like launcegays, trap guns, Bowie knives, and slung shots.

B. The operation of the Ordinance (a ban on exceptionally dangerous weapons) and its purpose (protecting Cook County from carnage wrought from

military-style weapons) is relevantly similar to historical regulations on exceptionally lethal weapons that are disproportionate to the end of self-defense.

C. The Ordinance is constitutional because it is an appropriate contemporary restriction implemented by the legislature in response to dramatic technological change and unprecedented societal concern. It is tailored to respond to the particular dangers presented in areas with mass casualty exposure and acute public safety risk.

II. Petitioners' argument that AR-15 platform weapons cannot be regulated because they are popular amongst gun owners is unsupported by precedent and misunderstands this Court's Second Amendment jurisprudence.

A. The evidence provided by Petitioners to support their argument that AR-15 platform weapons are in common use for a constitutionally protected purpose is woefully deficient and advances an unworkable approach to constitutional analysis.

B. AR-15 platform weapons are not customarily used for any purpose which would justify overruling democratically enacted regulation.

ARGUMENT

Cook County's Ordinance comports with the Second Amendment because it is "consistent with the principles that underpin the Nation's regulatory tradition." *United States v. Rahimi*, 602 U.S. 680, 692 (2024). Furthermore, the ban properly responds to

"unprecedented societal concerns" and "dramatic technological changes." *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 26-31 (2022); *Rahimi*, 602 U.S. at 693.

I. The Ordinance Fits Within This Nation's Tradition of Regulating Unusually Dangerous Weapons to Promote Public Safety.

The Second Amendment provides: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const. amend. II. This provision confers an individual right "to keep and bear firearms for self-defense." *United States v. Hemani*, 608 U.S. 772, 779 (2026) (citing *Heller*, 554 U.S. at 581). At the same time, this right is "not unlimited." *Heller*, 554 U.S. at 626. The Second Amendment does not permit the possession or use of "any weapon whatsoever in any manner whatsoever and for whatever purpose." *Id.*

To that end, weapons "most useful in military service—M-16 rifles and the like—may be banned." *Id.* at 627. Weapons "not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns" are unprotected. *Id.* at 625. Longstanding prohibitions on the possession of firearms by felons and the mentally ill, as well as laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, are also proper. *Id.* at 626; *accord Rahimi*, 602 U.S. at 693.

Each of these approved regulations shares a common purpose: protecting people from extraordinary danger.

1. In *Bruen*, this Court set forth a two-step test, beginning first with an assessment of whether "the Second Amendment's plain text covers an individual's conduct." *Bruen*, 597 U.S. at 24. As the Court subsequently explained in *Wolford v. Lopez*, the step one inquiry entails three subsidiary questions: does the law apply to all members of the political community; does it concern "Arms," defined as "any weapon customarily used for offensive or defensive purposes;" and does the law place restrictions on the possession or carrying of arms. 609 U.S. 185, 195 (2026). As detailed further below, *see infra* at 36-38, AR-15 platform weapons are militaristic weapons disproportionate to the end of self-defense.

To the extent that AR-15-platform weapons are "Arms," it is because they are customarily used for offensive purposes. They were developed for military use on battlefields and have the same features as the M-16—the "longest lasting, issued service rifle for all branches of the United States military." [3] Brandon L. Roach, *M-16 Now Longest Serving Rifle for U.S.*

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[3] Although scissors could be "useth in wrath to cast at or strike another," they are not "Arms" because weaponry is not their customary use. *Heller*, 554 U.S. at 581. The wristwatch, duct tape, and the Internet are popular items that, while developed for the military, are also not Arms and therefore not afforded *Second Amendment* protections. U.S. Amicus Br. 27.

Military, U.S. Marine Corps (Nov. 16, 2005), https://perma.cc/49EW-DVAJ.

2. The second step is an assessment of whether the Ordinance passes constitutional muster. Laws that are "relevantly similar" to firearms restrictions "well-established" in the Nation's history comply with the Second Amendment. *Bruen*, 597 U.S. at 28-30; *accord Rahimi*, 602 U.S. at 692. In determining whether historical analogues support a contemporary firearms restriction, two "metrics" play a central role: "how" and "why" the historical comparators "burden a law-abiding citizen's right to armed self-defense." *Bruen*, 597 U.S. at 29-30.

The comparable historical regulations need not be a "dead ringer" or a "historical twin." *Id.* at 31-33; *Rahimi*, 602 U.S. at 692. Taken together, the challenged law must in "purpose and operation" resemble one or more well-established historical analogues. *Hemani*, 608 U.S. at 780. The Ordinance satisfies the *Bruen* standard because its regulations are consistent with our Nation's "historical tradition of prohibiting the carrying of 'dangerous and unusual weapons.'" *Heller*, 554 U.S. at 627 (citation omitted).

A. Our Nation Has a Robust Tradition of Permitting the Regulation of Unusually Dangerous Weapons.

At every stage in our Nation's history, federal, state, and local legislatures have enacted regulations that have restricted weapons characterized as

"dangerous," "unusual," "uncommon," or a combination thereof. Ultimately, weapons that have proven to be exceptionally lethal and of great risk to public safety have been regulated. *See Lamont*, 153 F.4th at 233; *Hanson v. District of Columbia*, 120 F.4th 223, 238 n.7 (D.C. Cir. 2024) (similar).

At common law, English Parliament enacted outright bans on dangerous weapons including the launcegay. The early colonies followed suit with prohibitions on indiscriminate killing that could be accomplished by trap guns or with armed assemblies. During the Reconstruction era, bans on Bowie knives and slungshots were enacted to protect the public from their exceptional lethality. As discussed *infra* at 39-42, regulations on these exceptionally dangerous weapons were precursors to regulations of exceptionally dangerous firearms that would be implemented in the twentieth century.

The Constitution does not prevent states and localities from enacting laws they deem necessary to protect special risks to human life. *See, e.g.*, *Barsky v. Bd. of Regents of Univ.*, 347 U.S. 442, 449 (1954); *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11, 38 (1905); *Kelley v. Johnson*, 425 U.S. 238, 247 (1976). Many such laws were enacted and upheld as lawful from the founding to present times.

1. Our Founders were committed to "maintain all in the secure and tranquil enjoyment of the rights of person and property," George Washington, *Farewell Address* (Sept. 19, 1796), *reprinted in George*

Washington: Writings 958 (John Rhodehamel ed., 1996); *accord* The Federalist No. 9 (Alexander Hamilton), and enacted laws that regulated various dangerous weapons for public safety reasons. They followed the example set by our forebears, who also enacted arms-related regulations for the same reasons.

Affray. As early as the 1200s and 1300s, English Parliament codified common-law prohibitions against "riding or going armed" with "dangerous or unusual weapons," which would "terrify[] the good people of the land." 4 William Blackstone, *Commentaries on the Laws of England* 148-49 (1769); *see Rahimi*, 602 U.S. at 694. Among those early laws was the 1328 Statute of Northampton, which provided that men could "bring no force in affray of the peace, nor to go nor ride armed . . . upon pain to forfeit their Armour to the King, and their Bodies to Prison at the King's pleasure." 2 Edw. 3 c. 3 (1328).

Affray laws not only limited fighting in public, they also protected the public from having to fear the presence of unusually dangerous weapons in their midst. *Rahimi*, 602 U.S. at 697. Committing an affray did not require any act of violence; rather, affray statutes covered situations such as "where a Man arms himself with dangerous and unusual Weapons, in such a manner as will naturally cause a Terror to the People." 1 William Hawkins, *Treatise of the Pleas of the Crown* 135 (1716).

Another prominent commentator, William Lambard, explained that wearing an unusually dangerous weapon itself terrified the public: "[I]f a man shall shewe himselfe furnished with armour or weapon, which is not usually worne and borne, it will strike a feare unto others that be not armed as he is . . . ." 2 William Lambard, *Eirenarcha: Or of the Office of the Justices of Peace, in Foure Bookes* 129 (London, Thomas Wight & Bonham Norton ed., 1599); *see also Rex v. Harwood*, Quarter Sessions at Malton (Oct. 4-5, 1608), *in* 1 North Riding Record Society, Quarter Sessions Records 132 (Rev. J.C. Atkinson ed., 1884) (ordering that the accused be "br[ought]" and "bound" for "the outrageous misdemeanours" of "go[ing] armed and weaponed with a lance-staff plated with iron, pistols, and other offensive weapons").

Launcegays. English common law dictated that some "odious and noted instruments of murder and mischief" that were "polluting" the land with "blood" were necessarily subject to full restriction. A Proclamation Against Steelets, Pocket Daggers, Pocket Dagges and Pistols (R. Barker ed., 1616). English Parliament declared the launcegay, a 10- to 12-foot-long lance, as "a Thing prohibited" anywhere in "the Realm." *See* 7 Rich. 2 c. 13 (1383). This "offensive weapon[] [was] prohibited and disused." *Id.*

Across the Atlantic and continuing into the founding era, the tradition of restricting unusually dangerous weapons endured. Colonies such as Massachusetts Bay, New Hampshire, and Virginia

enacted their own versions of the Statute of Northampton. *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);; N.H. Acts & Laws 1, 2 (Fowle ed., 1761); Act of Nov. 27, 1786, ch. 21, 1792 Va. Acts 33, 33. Some colonies regulated specific categories of unusually dangerous weapons. For example, a 1686 East New Jersey statute prohibited the concealed carry of "unusual or unlawful weapons" such as pocket pistols, "Skeines," "Stilladers," daggers, and dirks. An Act Against Wearing Swords, &c., ch. IX, *in The Grants, Concessions, and Original Constitutions of the Province of New Jersey* 289, 290 (2d ed. 1881).

Trap Guns. Some colonies imposed outright bans on dangerous weapons, prohibiting the possession or ownership of trap guns—firearms that "discharge[d] when a person unwittingly trip[ped] a string or wire" and "inevitably harmed or killed innocent persons." *Duncan v. Bonta*, 133 F.4th 852, 875 (9th Cir. 2025). In 1670, the Colony of New Plymouth enacted a ban on trap guns except in enclosures, recognizing that they "greatly [e]ndangered" people. Charter & Laws of the Colony of New Plymouth 163 (William Brigham ed., 1836), https://perma.cc/MCU7-A4NU.

The Colony of New Jersey similarly criminalized trap guns due to their "dangerous" nature. 1763-1775 N.J. Laws 346, ch. 539, § 10. And over a dozen states banned trap guns in the following century. *See* Robert

J. Spitzer, *The Historic Regulation of 'Unusual' Weapons* 6-7 (July 3, 2026) (identifying 17 state anti-trap gun laws by 1900).

Armed Assemblies. Relatedly, colonial and early state legislatures also regulated battalions and armed assemblies because they presented unusual dangers to the public. For example, Pennsylvania made it unlawful for groups of three or more to meet "with clubs, staves, or any other hurtful weapons, to the terror of any of the peaceable people." Act of Jan. 12, 1705, 2 Pa. Stat. at L. 188. Massachusetts similarly prohibited assemblies of twelve or more persons "being Arm'd with Clubs or other Weapons." An Act for Preventing and Suppressing of Riots, Routs, and Unlawful Assemblies, ch. 12, 1750 Mass. Acts 339, 339-40.

The common concern behind these laws—which traced back to English common law and continued well past the founding—was that armed groups had the capacity to kill or seriously injure far more people in a short time than a single individual ever could before being restrained. *See, e.g.*, Lambard, *supra*, at 181 (the "shewe of Armor" in a gathering could "embolden[]" "busy bodies" and thereby "breede some apparant disturbance of the Peace"). Armed assemblies had "an apparent tendency [to force and violence]" and were "naturally apt to strike a terror into the people." 1 William Russell & Daniel Davis, *A Treatise on Crimes and Misdemeanors* 352 (Daniel Davis ed., Boston, Wells & Lilly 1824).

2. In the nineteenth century, state courts upheld laws regulating such weapons as "dirks, daggers, slungshots, swordcanes, spears, brass-knuckles, and bowie knives." *English v. State*, 35 Tex. 473, 476-77 (1871). The principle uniting these laws was that they restricted the possession of unusually dangerous weapons—"deadly devices and instruments" that were not proportionate for use in self-defense. *Id.*

Bowie Knives. From the 1830s through the early twentieth century, nearly every state passed restrictions that included bans on the manufacture, sale, and possession of the Bowie knife, enhanced criminal penalties and monetary fines, and prohibited both open and concealed carry. *Bianchi*, 111 F.4th at 466 (collecting cases); *see also* David B. Kopel & Joseph G.S. Greenlee, *The History of Bans on Types of Arms Before 1900*, 50 J. Legis. 223, 297 (2024). These knives had large, piercing blades that "wreaked particularly 'bloody' and 'gruesome' injuries," *Lamont*, 153 F.4th at 243, and were "instrument[s] of almost certain death," *Cockrum v. State*, 24 Tex. 394, 402 (1859).

In 1834, a Georgia grand jury decried the "common" practice with "the young the middle aged and the aged to arm themselves with Pistols, dirks knives sticks & spears under the specious pretense of protecting themselves against insult." Randolph Roth, *American Homicide* 218-19 (2009). The following decade, one English traveler noted, "almost every individual in America, more particularly in the

Southern States, carries [a Bowie knife] as their best and only defence . . . [against] personal injury." Francis Wyse, *America, Its Realities and Resources* 213-15 (1846).

Legislators determined it was necessary to "preserve the public peace, and protect our citizens from the terror which a wanton and unusual exhibition of arms might produce, or their lives from being endangered by desperadoes with concealed arms." *Aymette v. State*, 21 Tenn. 154, 158 (1840). Some jurisdictions banned the carry of Bowie knives outright, *see, e.g.*, Act of Feb. 2, 1860, 1860 N.M. Laws 94, §§ 1-2; 1890 Okla. Sess. Laws 495, ch. 25, art. 47, §§ 1-2, while others prohibited only their concealed carry, *see, e.g.*, 1837-1838 Tenn. Pub. Acts 200, ch. 137, §§ 1-2. Many jurisdictions went further still, combining carry restrictions with bans on sale, enhanced criminal penalties, and taxes on commercial distribution.

Alabama, for example, statutorily defined manslaughter committed with a Bowie knife as murder, imposed a $100 tax on every weapon sold (equivalent to several thousand dollars today) 1837 Ala. Acts 7, §§ 1-2, and separately prohibited concealed carry, 1838 Ala. Laws 67, § 1. West Virginia passed legislation that provided a financial reward to informants. W. Va. Code ch. 148, § 7 (1870) (stating that any person who carried a "pistol, dirk, bowie knife, or a weapon of the like kind" would be punished by a fine and "[t]he informers shall have one half of

such fine"); *see also Cockrum*, 24 Tex. at 402-03 (a death caused by a Bowie knife was statutorily defined as murder rather than manslaughter).

Several state supreme courts upheld the restrictions on Bowie knives and other especially dangerous weapons as consistent with the people's right to bear arms. *Cockrum*, 24 Tex. at 402-03 (restrictions on the Bowie knife were legitimate because it was "an exceeding[ly] destructive weapon"); *Aymette*, 21 Tenn. at 155, 159 ("[t]he Legislature . . . ha[s] a right to prohibit the wearing or keeping weapons dangerous to the peace and safety of the citizens"). Although the "right to keep and bear arms for the common defence is a great political right" that "must be inviolably preserved," the court concluded that "it does not follow that the Legislature is prohibited altogether from passing laws regulating the manner in which these arms may be employed." *Id*.

Slungshots. Other exceptionally dangerous weapons were also subject to outright bans. The slungshot was "a hand-held impact weapon with a weighted object at the end of a flexible strap" that was invented in the 1840s. *Duncan*, 133 F.4th at 876. Slungshots were "easy to make, silent, and very effective." *Bevis v. City of Naperville*, 657 F. Supp. 3d 1052, 1070 (N.D. Ill. 2023) (internal citation and quotation marks omitted).

In 1850, Massachusetts made it a crime to "manufacture[], or cause[] to be manufactured, or

sell[], or expose[] for sale, any instrument or weapon of the kind usually known as a slung shot." 1850 Mass. Acts & Resolves 401, 401. Florida enacted an identical law in 1868. *See* 1868 Fla. Acts 67, 95. Other states followed with similar measures. *See* 1881 Ill. Laws 73, 73 (banning possession, sale, or transfer of slung shots, metallic knuckles, "or other deadl[y] weapon of like character"); 1888 Gen. Minn. Law §§ 333, 334 (prohibiting manufacture, sale, or possession with intent to use); 1890 Okla. Sess. Laws 412, 475, § 18 (prohibiting manufacture, sale, or carrying); N.D. Pen. Code §§ 7312-13 (1895); S.D. Terr. Pen. Code § 457 (1877). In 1858, an assault with a slungshot was described as "exceptionable," "dangerous," "deadly," and "absolutely prohibited in all cases, except of most extreme necessity, that admit of no delay, as a check to mutiny." *Roberts v. Skolfield*, 20 F. Cas. 932, 936 (D. Me. 1858) (No. 11,917).

Restrictions on the carry of certain weapons were enacted to "counteract a vicious state of society, growing out of the habit of carrying concealed weapons, and to prevent bloodshed and assassinations committed upon unsuspecting persons." *State v. Chandler*, 5 La. Ann. 489, 490 (1850). Other weapons-related regulations were touted as "necessary for the protection of human life, and for the preservation of the peace and good order of the State." *Sutton v. State*, 12 Fla. 135, 136 (1868).

Into the twentieth century, legislatures continued to regulate exceptionally dangerous weapons,

particularly firearms capable of creating mass casualties. As will be discussed *infra* 39-42, regulations on automatic and semiautomatic weapons were enacted by states and the federal government to curtail harms brought upon the public by those weapons. At the same time, these weapons remained available to the military and law enforcement for public protection.

All told, our Nation's historical tradition permits legislative bodies to regulate arms, including banning them from possession by the public. Bans are appropriate when weapons are especially dangerous and not proportional to the end of self-defense. *See Bianchi*, 111 F.4th at 450.

B. The Ordinance Is Relevantly Similar to the Purpose and Operation of Historical Regulations on Unusually Dangerous Weapons.

In its operation, the Ordinance is consistent with the "principles that underpin our regulatory tradition" of restricting exceptionally lethal weapons. *Rahimi*, 602 U.S. at 692. It is a contemporary regulation that is relevantly similar in purpose and operation to well-established historical analogues. *Hemani*, 608 U.S. at 773.

1. The Ordinance targets a narrow class of firearms that are not proportionate for use in lawful self-defense, and "whose danger and lethality stand out." *Barnett*, 180 F.4th at 1047. Like historical

regulations on the carrying of certain weapons through affray laws, and possession bans imposed on exceptionally dangerous weapons such as launcegays, trap guns, Bowie knives, slungshots, crossbows, pocket dagges, steelets, and pistols, *see supra* at 21-25, the Ordinance confines itself to a specific category of firearms that present particular dangers to the people of Cook County. The danger is acute because the AR-15 platform has effectively collapsed the destructive power of an armed battalion into a single pair of hands, making this weapon the equivalent of an armed assembly. *See supra* at 20.

Significantly, Cook County has chosen to ban an unusually dangerous platform of weapons while leaving other arms available for lawful self-defense—including ordinary rifles, shotguns, and handguns. Petitioner Khaya, for example, owns a .22 caliber semiautomatic Rossi rifle and a Smith & Wesson handgun. JA73. The arms that remain available to the public were not created to cause the same level of destruction to the human body as AR-15 platform weapons and were not designed for the same superior lethality. The Ordinance thereby resembles the historical tradition of regulating dangerous weapons in a manner commensurate with the risks they pose, just like armed assemblies were regulated because of their special ability to inflict mass casualties.

Finally, the Ordinance is consistent with the historical tradition of allowing federal, state, and local governments to restrict civilian access to unusually

dangerous weapons while preserving military and law enforcement use. For instance, the federal regulation of machineguns, grenades, and artillery pieces has long followed this pattern. *See Bevis*, 85 F.4th at 1201-02. "Highly dangerous offensive weapons" best used for war and the infliction of mass carnage, are appropriately subject to restriction. *Staples*, 511 U.S. at 609 (internal citation and quotation marks omitted). This principle applies equally to AR-15 platform weapons.

To be sure, the Ordinance may not have a "historical twin." But a challenged regulation need "not precisely match its historical precursors" to pass Second Amendment muster. *Rahimi*, 602 U.S. at 692. It suffices if it is "analogous enough" to "what was done at the founding" to protect the citizenry or was later understood as a legitimate means of achieving that end. *Id*.

Throughout our historical tradition, legislatures enacted regulations on the manufacture, possession, and use of weapons to combat the specific public safety challenges presented by their proliferation. The Ordinance fits neatly within that tradition.

2. The Ordinance is also relevantly similar to the historical tradition with respect to why it was enacted: regulating exceptionally lethal weapons that are disproportionate to the end of self-defense to promote public safety.

Unusual Lethality. The AR-15 is unusually lethal. With military "capabilities of penetrating a steel helmet [and] body armor,"[4] the weapon can deliver lethal force at great distances and with a potency that no prior infantry weapon could match. The AR-15 also inflicts damage to the human body that handguns and other ordinary firearms are incapable of producing. *See* Expert Report of Martin A. Schreiber 2-3, *Viramontes v. Cook County*, No. 21-cv-4594 (N.D. Ill.), Dkt. 81-15. ("Schreiber Report").

AR-15s are designed to shoot .223 caliber ammunition (also measured at 5.56mm). Whereas standard handgun bullets travel straight through the body, AR-15 rounds "yaw" on impact, meaning the round destabilizes and begins to tumble, rotating on its axis sideways or even backwards. JA15.

The bullet rotates as it tears through a human body. JA51. AR-15 rounds can yaw to create a "'temporary cavity' or 'blast wave' that can be 'up to 11-12.5 times larger than the bullet itself.'" *Bianchi*, 111 F.4th at 455 (internal citations omitted). To visualize: while a .223 round is roughly the width of a pencil eraser, the wound cavity it creates inside the human body can be the size of a tennis ball. Panagiotis K. Stefanopoulos et al., *Firearm Injuries: A Review of*

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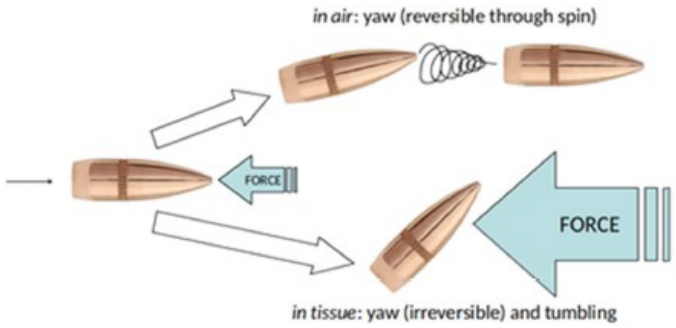
[4] Hearings Before the Special Subcommittee on the M-16 Rifle Program of the Committee on Armed Services, House of Representatives 4541 (1967) (statement of Eugene M. Stoner, Consultant to Weapons System Ordnance (*sic*) Development Center, TRW Co., and Cadillac Gage Co.).

Wound Ballistics and Related Emergency Management Considerations, Emerg. Care Med. at 4, 9 (2025).



Id. at 4.

In addition, the "killing capacity" of a weapon is largely a function of the "kinetic energy imparted by the bullet." Schreiber Report 2. The AR-15 can fire .223 rounds at an approximate speed of 3,200 feet per second (equivalent to 2,000 miles per hour). JA14. Moving at this tremendous speed the bullet strikes with three to four times more kinetic energy than a handgun. *Id*. The faster the bullet, the more the tissue stretches, rupturing additional blood vessels. Panagiotis K. Stefanopoulus et al., *Wound Ballistics of Firearm-Related Injuries—Part I: Missile Characteristics and Mechanisms of Soft Tissue Wounding*, 42 Int. J. Oral Maxillofac. Surg. 1445, 1448, 1452 (2014). When that stretching occurs in inelastic tissue such as "the brain, liver, and kidney and fluid-filled organs such as the heart," the tissue can "shatter, rupture, or tear." *Wallace*, *supra*, at 46.

Resulting injuries—"multiple organs shattered, bones exploded, and soft tissue absolutely destroyed—often cannot be repaired by trauma surgeons." *Bianchi,* 111 F. 4th at 455 (citation modified). As the treating physician for Gabby Giffords explained: a handgun "is simply a stabbing with a bullet. It goes in like a nail," but with an AR-15, "it's as if you shot somebody with a Coke can." Tim Dickinson, *All-American Killer: How the AR-15 Became Mass Shooters' Weapon of Choice*, Rolling Stone (Feb. 22, 2018), https://www.rollingstone.com/politics/politics-features/all-american-killer-how-the-ar-15-became-mass-shooters-weapon-of-choice-107819. As a result, a person shot by an AR-15 is much more likely to die or suffer permanent, life-altering injuries than someone shot with a handgun.

Capacity for Inflicting Mass Casualty. AR-15 platform weapons have the destructive power of an armed battalion. As manufactured, the AR-15 typically comes with a standard 30-round magazine, *see ANJRPC*, 183 F.4th at 249, which enables a single shooter to fire 30 rounds through walls, doors, and other barriers in a matter of seconds without reloading, *see Bianchi*, 111 F.4th at 458.

With a pistol grip and straight-line stock, felt recoil and muzzle rise are reduced, which allows even untrained shooters to quickly empty an entire magazine. AR-15 rounds can maintain lethal accuracy at distances far beyond those at which a handgun can be effectively fired, giving a lone gunman "'a military-

style advantage.'" *Bianchi*, 111 F.4th at 457 (internal citation omitted). It therefore comes as no surprise that the AR-15 has become the weapon of choice for mass shooters and terrorists.

Seven of the eight deadliest attacks in the United States since 9/11 involved AR-15 platform weapons. *See* Expert Report of Louis Klarevas ¶ 28, *Viramontes v. Cook County*, No. 21-cv-4595 (N.D. Ill.), Dkt. 81-3 ("Klarevas Report"). Between 1991 and 2022, 75% of shootings resulting in more than 20 deaths involved an AR-15 platform weapon. *See* Supplemental Expert Report of Louis Klarevas 44, *Barnett v. Raoul*, No. 23-cv-00209 (S.D. Ill.), Dkt. 190-1 ("Klarevas Supplemental Report").

Special Threat to Law Enforcement. The unusual danger to the public is compounded by the threat that AR-15 platform weapons pose to law enforcement officers—a threat that has claimed lives, left officers outgunned in the field, and contributed to delayed response to active shooters. This disparity in weaponry is a terrifying prospect for victims given that the "purpose and best use" of the AR-15 "is to kill with extreme speed and efficiency." Decl. of Larry Snelling ¶ 18, *Viramontes v. Cook County*, No. 21-cv-4595 (N.D. Ill.), Dkt. 81-10 ("Snelling Report").

Prior to 2008, Cook County's largest police department, the Chicago Police Department, did not train its officers to use AR-15 platform weapons, but evolving realities require a different approach. *Id.* ¶ 19. Today, the Chicago Police Department permits a

small fraction of officers to use AR-15 platform weapons in situations that involve "high-threat confrontations involving heavily armed or multiple offenders, active-shooting incident[s], and violent offenders who are utilizing body armor, shielding, or distances beyond reasonable pistol range." Chicago Police Department, Police Carbine Operator Program, U04-02-05, at 1 (Feb. 2, 2015); JA85.

Before a Chicago police officer can use an AR-15, forty hours of intense training, along with qualification and certification tests, are required.[5] The standard issue weapon was, and continues to be, the handgun. Police Carbine Operator Program, U04-02-05, at 7; JA61. Legalizing AR-15 platform weapons in Cook County would leave police officers seriously outgunned.

Officers throughout the County go to work every day wearing soft body armor that is easily pierced by AR-15 gunfire. Stopping such rounds requires hard armor plates made of steel, ceramic, or composite materials, but hard armor plates are extremely difficult to wear. Typical hard armor gear – with front and back plates – can weigh over 20 pounds. *See* Soft

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[5] See, for example, Special Orders S11-03-01 - Annual Prescribed Weapon Qualification Program and Taser Recertification; S11-03-03 - Firearms Practice Program; S11-03-04 - In-Service 3.5 Hour Firearms Training Program; S11-03-05 - Shooter Development Firearms Training Program; and S11-10 – Department Training. *See* Chicago Police Department, Department Directives System (July 22, 2025), https://directives.chicagopolice.org/#.

Body Armor vs. Hard Armor Plates: Complete Protection Comparison, U.S. Armor (Oct. 1, 2025), https://perma.cc/X6Q4-BM7W. Ordinary officers are hard pressed to wear this heavy gear and still be agile enough to do their jobs. Snelling Report ¶¶ 22-23.

Such equipment is also prohibitively expensive for many police departments. JA42. Indeed, Chicago police officers must purchase hard armor plates "out of their own pockets." *See* Snelling Report ¶ 23; *accord* Chicago Police Dep't, Body Armor – Soft, U006-01-30 (Aug. 26, 2019). And officers who have access to and wear hard armor are only protected if they are struck in a covered area. Even if the armor does stop the round, the high velocity of the impact can still inflict significant blunt-force trauma. JA43. If struck in an uncovered area, there is a great risk of death. Snelling Report ¶ 22.

The first officer responding to an active shooter who is armed with an AR-15 will "likely have weaker firepower than the assailant," (JA42, 166) and the specialized units equipped to respond may be far away, leaving the active shooter to engage in rapid fire during the time it takes the specialized units to respond. In a context where minutes or seconds may significantly compound the number of dead or wounded victims, this disparity is critical.

The first officers to arrive at the Uvalde elementary school shooting—which left 19 children and two teachers dead—"concluded they were outgunned" and "that they could die" after identifying

the shooter's weapon as an AR-15. The Border Patrol SWAT team that was equipped to respond was 60 miles away. *Bianchi*, 111 F.4th at 458 (quoting Zach Despart, *"He Has a Battle Rifle": Police Feared Uvalde Gunman's AR-15*, Tex. Tribune (Mar. 20, 2023)).

Forty-nine people were killed at the Pulse nightclub shooting. The first officer on scene "recognized that his Sig Sauer P226 9mm handgun . . . was no match for the .223 caliber rifle being fired inside the club and moved to a position that afforded him more cover in the parking lot." *Id.* at 458 (quoting Frank Straub et al., *Rescue, Response, and Resilience*, U.S. Dep't of Justice Cmty. Oriented Policing Servs., at 1, 7 (2017)).

The AR-15's effective range further compounds the problem. AR-15 rounds can maintain lethal accuracy at distances far beyond those at which a handgun can be accurately fired, "allow[ing] criminals to effectively engage law enforcement officers from great distances, giving them a military-style advantage." *Bianchi*, 111 F.4th at 457 (internal citation and quotation marks omitted). An AR-15-armed shooter can therefore gun down officers and civilians alike from well outside the range at which police can return effective fire with their service weapons.[6]

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[6] The long-range lethality of an AR-15 facilitated the attempt to assassinate President Donald J. Trump and kill a bystander at a 2024 campaign rally. The shooter climbed onto a rooftop approximately 150 yards from the podium and fired an AR-15

This is especially concerning given that "assault rifles have been used in the deadliest recent attacks on law enforcement officers, such as the 2016 killing of five Dallas police officers and the 2024 murder of four officers, including three U.S. Marshals task force members, in Charlotte." *Id.* at 457 (citing Sopan Deb et al., *8 Officers Are Shot, 4 Fatally, While Serving Warrant in Charlotte*, N.Y. Times (Apr. 29, 2024)). Legislatures should be permitted to take law enforcement safety into account when crafting laws related to the Second Amendment. When a particular firearm acutely inhibits the ability of police officers to quell lethal threats to themselves and the public, possession of the firearm ought to be restricted.

It is no answer that the vast majority of those who own AR-15 platform weapons pose no risk and seek to cause no harm. The same could be said of most individuals who, but for legal restrictions, would bring firearms into courthouses, stadiums, schools, or other sensitive places, and of the many law-abiding citizens who would purchase fully automatic machineguns if permitted to do so. Yet this Court has recognized that sensitive-place restrictions and the prohibition on machineguns are "presumptively lawful." *Heller*, 554 U.S. at 626-27 & n.26. The reason is straightforward: the special risk that the particular weapon or place poses to public safety justifies

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style semiautomatic rifle chambered with .223/5.56 rounds. H.R. Rep. No. 118-873, at 69, 114, 228 (2024).

regulation, regardless of how responsibly the typical individual owner might behave.

Dangerousness Disproportionate to Self-Defense. The Ordinance properly regulates AR-15 platform weapons because they are weapons customarily used for offensive purposes and disproportionate to the end of self-defense. English common law permitted regulations on the types of weapons that could lawfully be kept for self-defense, specifically recognizing "the right of having arms for their defence, suitable to their condition and degree, and such as are allowed by law." 1 William Blackstone, *Commentaries* *139.

In *Cockrum v. State*, the Supreme Court of Texas rejected the defendant's claim that the legislature could not pass a law that curtailed his exercise of self-defense because the right to self-defense "is one of the 'high powers' delegated directly to the citizen, and 'is excepted out of the general powers of government.'" 24 Tex. at 401. Relying on the "well established maxim of law, that 'you must so use your own as to not injure others,'" the Texas court upheld the regulation, noting that carrying the exceptionally lethal Bowie knife for the purpose of self-defense makes a person "more dangerous to the rights of others, considering the frailties of human nature, than if he carried a less dangerous weapon." *Id.* at 403.

The AR-15's military features including the capability for long range fire, ability to pierce barriers, and the number of rounds that can be fired quickly,

similarly reinforce that it is disproportionate to the end of self-defense. Its purpose was for battlefields teeming with enemy soldiers, not for city blocks populated with families.

Possessing and carrying an AR-15 platform weapon on those city blocks would create its own special danger. Imagine walking around with an AR-15 while getting gas, going to a fast-food restaurant to buy lunch, running an errand at the drug store, picking up clothes from the dry cleaner, and shopping for groceries. See *Wolford*, 609 U.S. at 203 (citing *Caetano v. Massachusetts*, 577 U.S. 411, 412-13 (2016) (Alito, J., concurring in the judgment)). This conduct would be terrifying to the people and risk incredible danger.

Similarly, the use of the AR-15 for self-defense in the home is also impractical because it is "both ill-suited and disproportionate to self-defense." *Bianchi*, 111 F.4th at 461. AR-15s typically hold 30 bullets, yet a recent report analyzing instances of self-defense of the type collected by the NRA's Armed Citizen Database found that only 2.7% of all incidents involved firing more than 5 shots. See Expert Report of Lucy Allen, App. 423, *Capen v. Campbell*, No. 24-1061 (1st Cir.) ("Allen Report").

Furthermore, "[s]tatistics show that rifles—a category of weapons inclusive of but far broader than AR-15s—were used in just two to four percent of recorded defensive gun incidents." *ANJRPC*, 183 F.4th at 287-88 (Shwartz, J., dissenting); *see also*

id. at 288 (FBI data showing that between 2000 and 2022, an "armed civilian interven[ed] with an assault weapon" only once in 456 active shootings). AR-15 use in self-defense is not ideal given that the weapon is "heavier, longer, harder to maneuver…, less readily accessible in an emergency, and more difficult to operate with one hand" than other weapons, making it much less likely to be effectively used in an emergency self-defense situation. *Bianchi* 111 F.4th at 459; *see also Barnett*, 180 F.4th at 1051.

This explains why the handgun is the "quintessential" weapon for self-defense. "It is easier to store in a location that is readily accessible in an emergency; it cannot easily be redirected or wrestled away by an attacker; it is easier to use for those without the upper-body strength to lift and aim a long gun; [and] it can be pointed at a burglar with one hand while the other hand dials the police." *Heller*, 554 U.S. at 629. Because AR-15 platform weapons have the ability to inflict extraordinary damage on a scale that is disproportionate to the end of self-defense, they are distinct from handguns and the Ordinance rightly limits access to them.

C. The Ordinance, Like Other Historical Restrictions, Responds to Dangers that Were Created by Technological Change and Unprecedented Societal Concerns.

In recent years, this Court has emphasized that "dramatic technological and social changes" may require a more nuanced application of precedent.

South Dakota v. Wayfair, Inc., 585 U.S. 162, 181 (2018); *see also Riley v. California*, 573 U.S. 373, 403 (2014). *Bruen* applied that same principle in observing that "unprecedented societal concerns or dramatic technological changes may require a more nuanced approach" to the Second Amendment. 597 U.S. at 27. AR-15 platform weapons sit at the intersection of "unprecedented societal concern[]" and "dramatic technological change[]." *Id.* Today, AR-15 platform weapons present dangers "unimaginable at the founding." *Bruen*, 597 U.S. at 28.

1. *Technological Change.* Until the last century, firearms were incapable of quickly discharging long-range, exceptionally lethal consecutive rounds. "From 1791 through the mid-nineteenth century, the ubiquitous firearm was a single-shot, muzzle-loaded firearm." *Barnett*, 180 F.4th at 1055; *accord Lamont*, 153 F.4th at 237.

Rifles of that period, such as the Kentucky long rifle, required a lengthy and meticulous process to reload and lacked the capacity to fire consecutive rounds that typify AR-15 platform weapons. *Bianchi*, 111 F.4th at 464; *Lamont*, 153 F.4th at 238. Many were "plagued" with a "propensity to jam or misfire." *Hanson*, 120 F.4th at 242.

"[R]epeating arms," best described as "technologically flawed curios with limited practical utility," also existed during the founding and were capable of firing multiple rounds in a row, but were altogether different in kind from AR-15s. *Barnett*, 180

F.4th at 1056; *accord Lamont*, 153 F.4th at 237. In fact, they were essentially novelty items—so rare that they "never penetrated the commercial or military markets," and therefore were not used for personal or common defense. *Barnett*, 180 F.4th at 1056.

Two examples of repeating rifles that existed during the 1860s and 1870s are the Henry Rifle and the Winchester Repeating Rifle. Each rifle required the shooter to "manipulate a lever forward and then backward between each shot—and was reloaded one round at a time." *Barnett*, 180 F.4th at 1056. Moreover, "very few" of either firearm were "in the hands of private persons" during this period. Brian DeLay, *The Myth of Continuity in American Gun Culture*, 113 Cal. L. Rev. 1, 41 (2025); *see also* Expert Report of Michael Vornberg, App. 1747-48, *Capen v. Campbell*, No. 24-1061 (1st Cir.). These weapons were a far cry from the semi-automatic and automatic firearms that would be developed over the next century.

In 1920, the invention of the Thompson machinegun put technologically advanced firearms with incredible firing capacity and potential for lethality in the hands of civilians for the first time in our historical tradition. *Bianchi*, 111 F.4th at 469. Civilian access to the weapon resulted in "national tragedies" like the St. Valentine's Day and Kansas City massacres, which "put pressure on government to do something." *Id*.

Legislatures acted and passed laws that were tailored to advance the government's priority of maintaining public safety. Accordingly, "[a]t least 29 states enacted anti-machine-gun laws between 1925 and 1934," and ten "restricted semiautomatic weapons between 1927 and 1934." *Id*. at 470 & nn.14-15 (collecting state statutes).

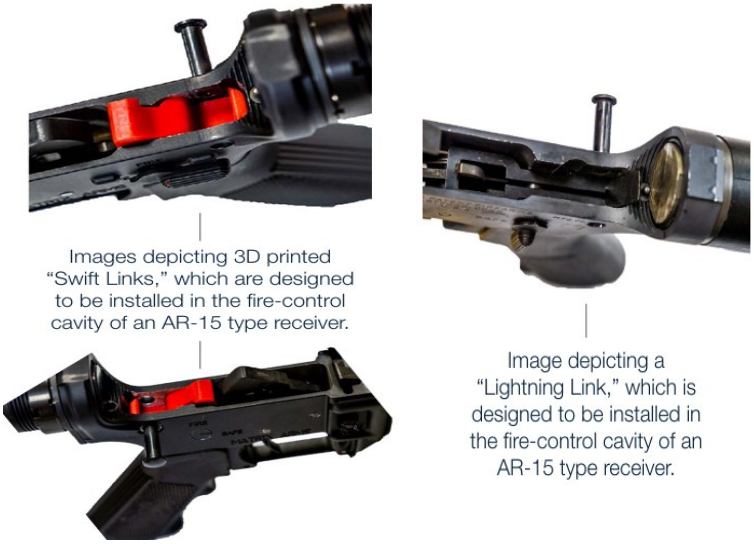
In the late 1920s and early 1930s, Massachusetts, Michigan, Minnesota, Ohio, Rhode Island, Virginia, and the District of Columbia prohibited the manufacture, sale, or possession of weapons that could shoot multiple rounds automatically or semi-automatically. *See* Robert J. Spitzer, *Gun Law History in the United States and Second Amendment Rights*, 80 Law & Contemp. Probs. 55, 70-71 (2017).

Congress followed next with the National Firearms Act of 1934, "which severely curtailed the civilian possession and general circulation of automatic weapons, as well as sawed-off shotguns, short-barreled rifles, and silencers." *Bianchi*, 111 F.4th at 470 (citing Pub. L. No. 73-474, 48 Stat. 1236 (1934)). The National Rifle Association assisted in drafting the Act, *see* Arica Coleman, *When the NRA Supported Gun Control,* Time (July 29, 2016), https://time.com/4431356/nra-gun-control-history, and it was accepted as a legitimate "obviously uncontroversial" regulation of unusually dangerous weapons, Spitzer, *Gun Law History*, *supra*, at 69. Unsurprisingly, these laws gave rise to no serious

Second Amendment challenge. *See United States v. Berger*, 189 F.4th 333, 339 (3d Cir. 2026).

As more technologically advanced weapons proliferated, regulation expanded, and in 1968 the sale and delivery of destructive devices (defined as an "explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device") and machineguns were severely restricted. *See* Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, § 921(a)(4), § 922(b), 82 Stat. 197, 227, 230 (1968). Machineguns were banned outright by the Firearm Owners' Protection Act of 1986. *See* Pub. L. No. 99-308, § 102(9), 100 Stat. 449, 452-53 (1986).

The AR-15 is readily convertible into a machinegun. As noted by the Solicitor General, "it is made with components that can easily be removed and reconfigured, and its design makes it easy to add accessories." U.S. Amicus Br. 22. This includes adding a bump stock which allows the AR-15 to mimic automatic firing, or a machinegun conversion device ("MCD"), shown below, which converts it into a fully automatic weapon, capable of firing up to 800 rounds per minute. *Bevis*, 85 F.4th at 1196.



Bureau of Alcohol, Tobacco, and Firearms, *Machinegun Conversion Devices, Fact Sheet*, https://perma.cc/3RXX-AMVK.

These devices, which can be purchased online at minimal cost or manufactured at home on a 3D printer, are increasingly popular, despite the current federal ban. 18 U.S.C. § 922(o); 27 C.F.R. § 479.105. Between 2019 and 2023, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) reported a 784% increase in MCDs recovered by law enforcement. Press Release, U.S. Dep't of Justice, *Justice Department Announces ATF's Publication of Final Volume of National Firearms Commerce and Trafficking Assessment*, (Jan. 8, 2025), https://perma.cc/V3S6-MTBB.

As the Fourth Circuit explained in *Bianchi*, AR-15 platform weapons "are not the modern equivalents of weapons that were commonly possessed and employed for self-preservation by your shopkeeper, or your butcher, or your blacksmith up the road in colonial America—the disarmament of whom the Second Amendment was ratified to prevent." *Bianchi*, 111 F.4th at 452.

2. *Unprecedented Societal Concerns.* "Today, the right to bear arms is misused in other ways that were unknown to our forebears but pose an equivalent risk to persons or property." *Wolford*, 609 U.S. at 220 (Barrett, J., concurring). Our forebears could not have anticipated the mass production of a weapon with the destructive capacity of the AR-15, not to mention the accessories that increase its already incredible lethality. When faced with such new situations, states and localities may "respond with 'focused regulations' to address the threat." *Id.* (quoting *Rahimi*, 602 U.S. at 700). The Ordinance does just that.

The first mass shooting of American civilians involving an AR-15 occurred in 1977, when a single shooter killed six people outside a nightclub in Klamath Falls, Oregon. McWhirter & Elinson, *supra*, at 161. Today, these frightening crimes are a chronic problem. More people have died or been injured in mass school shootings in the United States from 2000 to 2018 than in the entire twentieth century. Antonis Katsiyannis, Denise K. Whitford & Robin Parks Ennis, *Historical Examination of United States*

Intentional Mass School Shootings in the 20th and 21st Centuries: Implications for Students, Schools, and Society, 27 J. of Child & Fam. Stud. 2562 (2018). A recent report explained that "the U.S. experienced more than 600 mass shooting incidents each year between 2020 and 2023, compared to an average of less than 400 annual mass shooting incidents between 2015 and 2018." U.S. Surgeon Gen., *Firearm Violence: A Public Health Crisis in America* 11 (2024), https://perma.cc/R9XC-FXMW. As discussed *supra* at 30-31, shootings involving the use of AR-15 platform weapons are disproportionately responsible for double-digit fatalities and mass carnage. *See* Klarevas Supplemental Report 52; *Barnett*, 180 F.4th at 1058.

Other jurisdictions are entitled to strike different balances, but Cook County has scores of special events, sports stadiums, bustling business districts, medical campuses, and community gathering spaces—the risk of mass casualty looms. As such, the County acted reasonably in 1993 to ban AR-15 platform weapons.

Cook County enacted a ban on AR-15 platform weapons to meet its "most basic responsibility . . . to keep its people safe." *Caetano*, 577 U.S. at 421 (Alito, J., concurring in the judgment). Laws may be passed to solve a specific "regulatory problem," but cannot simply be motivated by "the general danger associated with the presence of firearms." *Wolford*, 609 U.S. at 220 (Barrett, J., concurring).

However, states and localities may respond to a "specific threat to public peace and safety" that arises from a "specific, heightened risk of the[] misuse" of firearms and Cook County has done precisely that. *Id.* Cook County's Ordinance responds to the "specific threat" posed by militaristic weapons capable of long-range fire and mass casualty outcomes with a targeted, common-sense regulation.

II. The Relative Popularity of a Weapon Does Not Insulate It from Regulation.

Petitioners argue that the Second Amendment does not permit regulation of any weapons that are in "common use for lawful purposes." Petrs. Br. 29. They maintain that once Americans "own a type of arm for lawful purposes" in sufficient numbers, "it is impossible to conclude that the people have determined the arm is so dangerous it is unfit for use by ordinary citizens." *Id.* at 39. This theory misreads this Court's precedent.

Once it is established that a regulation pursues a legitimate public safety objective in a permissible manner, raw ownership numbers cannot immunize a firearm from regulation, especially when the firearm is not customarily used for self-defense.

A. Common Use Is Not Determinative of Constitutional Protection.

1. Petitioners claim that this Court has "already" held that step two of *Bruen* forbids regulating any firearm that is "in common use." Petrs. Br. 28. For this

assertion, they rely primarily on this Court's explanation in *Heller* that "the sorts of weapons protected" by the Second Amendment are "those in common use." Petrs. Br. 29 (quoting 554 U.S. at 627). That language, however, speaks to what *Bruen* later called step one—the inquiry whether the weapon at issue is one "the Second Amendment protects." 597 U.S. at 32. The Court in *Wolford* confirmed as much, framing a step-one inquiry as whether the weapons at issue are "customarily used for offensive or defensive purposes." 609 U.S. at 195.

This Court's decision in *Bruen* confirms that the Second Amendment's step-two inquiry does not insulate popularly owned firearms from regulation. In *Bruen*, it was undisputed that "handguns are weapons 'in common use' today for self-defense," including outside the home. 597 U.S. at 32 (quoting *Heller*, 554 U.S. at 627). But instead of being the end of this Court's inquiry, that observation was just the beginning. This Court then undertook "an 'extended analysis of the Government's proposed historical analogs.'" *Barnett*, 180 F.4th at 1054 (quoting *Hanson*, 120 F.4th at 234). If lawful common use alone were enough to forbid regulation, there would have been no need to engage in that careful and prolonged analysis.

Contrary to Petitioners' contention, Petrs. Br. 32-33, 38, *Caetano v. Massachusetts* does not compel a different conclusion. In that case, this Court stated a firearm cannot be banned simply because it is "a thoroughly modern invention" that was "not in

existence at the time of the founding." *Caetano*, 577 U.S. at 411-12 (first quoting *Commonwealth v. Caetano*, 26 N.E.3d 688, 693-94 (Mass. 2015); and then quoting *Heller*, 554 U.S. at 582). *Caetano* did not suggest that ownership numbers alone could immunize a ban on exceptionally dangerous firearms that is consistent with our Nation's regulatory history and tradition.

Heller's recognition that the Second Amendment allows legislative bodies to ban machineguns, *see* 554 U.S. at 627, reinforces that a firearm's popularity cannot sink an otherwise valid restriction on its ownership. As recently as 2021, approximately 740,000 machineguns were registered with ATF. *Bianchi*, 111 F. 4th at 460; *see also Del. State Sportsmen's Ass'n v. Del. Dep't of Safety & Homeland Sec.*, 664 F. Supp. 3d 584, 592 (D. Del. 2023); *cf. Caetano*, 577 U.S. at 420 (Alito, J., concurring in the judgment) (suggesting "approximately 200,000" people owning a type of firearm constitutes common use). If machineguns became legal to purchase again, that number would surely rise even higher.

Yet there is no reason to think the federal ban on machinegun ownership is constitutionally suspect. The only logical takeaway is that legislative bodies can ban firearms that are owned by—or, if left on the market, would be purchased by—a significant part of the population. Petitioners' common use test fails because the Second Amendment cannot be the only constitutional right that provides protection based on

whether federal or some number of state and local laws make it legal to own them. *See Bianchi*, 111 F.4th at 460-61.

2. The Second Amendment does not contain "a 'use it or lose it' view of legislative authority." *Rahimi*, 602 U.S. at 739-40 (Barrett, J., concurring). That is, legislatures need not ban new firearms at their inception, or else risk never being able to regulate them once they have become commonly owned by members of the public. Under Petitioners' theory, states and localities would have an overwhelming incentive to ban new arms before they became popularly owned. Otherwise, once popular ownership occurred, they would "lose" their ability to ban or otherwise regulate them.

Relying on popularity would also result in "circular" reasoning. *Friedman v. City of Highland Park*, 784 F.3d 406, 409 (7th Cir. 2015). Had Congress never passed the federal ban on machineguns, the Thompson machinegun may have risen in popularity, and under Petitioners' framework, would be exempt from regulation. "[I]t would be absurd to say that the reason why a particular weapon can be banned is that there is a statute banning it, so that it isn't commonly owned. A law's existence can't be the source of its own constitutional validity." *Id.*

3. Numbers alone cannot determine constitutionality. Otherwise, MCDs that turn AR-15 platform weapons into machineguns could be legalized

today because statistics reflect that their popularity has risen significantly.

Moreover, a "common use" test that turns solely on the sheer number of firearms possessed by the populace poses serious administrability problems and presents significantly more questions than answers. Exactly what raw number or percentage of the country would suffice to establish immunity from regulation on common-use grounds? How many state (or local) laws are needed to demonstrate a "traditional legislative practice"? How does this approach reconcile with the general principle that questions concerning the constitutionality of one state's law cannot be "answered by cataloging the practices of other States"? *Martin v. Ohio*, 480 U.S. 228, 236 (1987).

Next, at what point in time should courts assess numbers regarding the extent of a firearm's popularity? Petitioners seem to assume that the counting should start whenever a litigant decides to challenge the regulation, but their position is misguided. By Petitioners' logic, the constitutionality of a ban could fluctuate from year to year depending on the purchasing whims of consumers and the manufacturing decisions of gunmakers.

Colt only produced roughly 2,400 AR-15s in 1964 and never made more than 5,000 annually until 1973. McWhirter & Elinson, *supra*, at 153-54. Applying Petitioners' common use methodology, the AR-15 could have been constitutionally restricted when civilian ownership was lacking but would be immune

from regulation after the federal ban was lifted and sales increased. This would mean that if laws had been passed in 1964 to ban the sale of AR-15s they would be constitutional, but later identical laws would not pass muster. Petitioners do not address these questions or gaps in logic, and history offers no answers, because the Second Amendment has never precluded regulation based on a firearm's popularity alone.

Legislatures should be slow to regulate and willing to objectively assess the impact of a weapon on public safety. But once it becomes clear that a new weapon poses an unacceptable threat to human life, legislatures should be able to act. Under our "federal structure," states and localities can "compet[e] for [the] mobile citizenry" with different approaches to unusually dangerous weapons. *Bond v. United States*, 564 U.S. 211, 221 (2011) (quoting *Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991)). And as Petitioners point out, many states in fact take a different view of these various policy arguments. Individuals who would prefer to live where unusually dangerous weapons are legal can "vote with their feet and move to a jurisdiction where their views have prevailed." *Schoenthal v. Raoul*, 150 F.4th 889, 920 (7th Cir. 2025), *cert. denied*, 146 S. Ct. 2158 (2026).

4. Contrary to Petitioners' assertion, legislative action to protect the public does not amount to second-guessing "the choices of the American people" regarding which firearms are worthy of ownership.

Petrs. Br. 31. Over 120 million people are living in states, counties, and municipalities that have voted to be free from AR-15 platform weapons, and many of those places are among the most densely populated areas of the country.[7] *See* U.S. Census Bureau, https://perma.cc/J96L-AF8R (last visited Oct. 19, 2026).

The majority of the voting population of those jurisdictions has chosen representatives that have championed legislation regulating AR-15 platform weapons. Upholding this Ordinance would accept the judgment of the people on a quintessentially policy-laden issue—banning weapons that pose an unacceptable risk to public safety.

B. AR-15s Are Not in Common Use for Any Purpose That Immunizes Them from Regulation.

Even if common use could defeat an otherwise sound regulation, such use would have to turn, not on raw ownership numbers, but on the extent and suitability for constitutionally protected uses. And here, AR-15 platform weapons are not customarily used for lawful self-defense or hunting (to the extent that hunting is a legitimate Second Amendment concern).

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[7] Population data includes California, Connecticut, Delaware, Illinois, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Virginia, Washington, Dayton, Denver, Indianapolis, Minneapolis, Philadelphia, Pittsburgh, and Washington, D.C.

1. It is well settled that self-defense is the Second Amendment's "'central' concern." *Wolford*, 609 U.S. at 192 (quoting *Heller*, 554 U.S. at 577, 581, 599, 628, 635). The concept of self-preservation is a fundamental value worthy of protection in the Bill of Rights. Blackstone, for instance, described the arms provision of the English Bill of Rights as safeguarding "the natural right of resistance and self-preservation." *Heller*, 554 U.S. at 593-94. And this Court has long presumed that an inherent constitutional right to self-defense exists. *See, e.g.*, *Martin*, 480 U.S. at 236. Consequently, this Court in *Bruen* explained that the Second Amendment covers firearms "'in common use' today for self-defense." 597 U.S. at 32 (quoting *Heller*, 554 U.S. at 627).

However, as discussed *supra* at 36-38, AR-15 platform weapons are not commonly used for self-defense. Petitioners point to surveys showing that some people tell pollsters they purchase AR-15s for that purpose, Petrs. Br. 11-12, but a survey participant's articulated intent is not dispositive of constitutional questions. *See e.g.*, *Counterman v. Colorado*, 600 U.S. 66, 74-77 (2023) (subjective intentions alone are not determinative of categories of speech that are carved out of the First Amendment).

Indeed, "constitutional rights are generally not defined by the subjective intent of those asserting the rights. The problems inherent in such a standard are self-evident." *Hudson v. Palmer*, 468 U.S. 517, 525 n.7 (1984). Among other things, the "general preference of

constitutional law for objective inquiries over subjective ones" "spare[s] courts the practical difficulties of assessing the sincerity and idiosyncrasies of individual litigants." *Elhady v. Kable*, 993 F.3d 208, 222 (4th Cir. 2021) (citing *Whren v. United States*, 517 U.S. 806, 813-14 (1996)).

To the extent that any "common use" inquiry falls within step two of the Second Amendment's governing framework, the AR-15 is not a suitable firearm for self-defense and is not customarily used for that purpose.

2. The Solicitor General contends that the Second Amendment protects arms commonly owned for hunting, and that AR-15 platform weapons are commonly used for that purpose. U.S. Amicus Br. 26. Petitioners, however, acknowledge that the AR-15 is not suitable for all hunting, particularly, anything larger than varmint. Petrs. Br. 9.

This Court has suggested that hunting for "sustenance" is a lawful purpose. *Wolford*, 609 U.S. at 193 n.4. But "assault rifles were not designed for traditional hunting," and "[n]either was the .223 caliber / 5.56mm cartridge." Expert Report of James Yurgealitis 27, *Viramontes v. Cook County*, No. 21-cv-4595 (N.D. Ill.), Dkt. 81-5. Rifles designed for hunting "traditionally have an internal magazine capacity of less than 10 rounds depending on caliber." *Id.* at 26. "Most traditional hunting rifles or sporting rifles . . . do not have the ability to accept" or "use detachable magazines with varying capacities." Yurgealitis Tr.

34:19-22, *Viramontes v. Cook County*, No. 21-cv-4595 (N.D. Ill.), Dkt. 81-12.

Moreover, the massive harm that a tumbling AR-15 bullet causes to the flesh of a target makes it a poor choice for hunting. AR-15s using customary ammunition often create bloodshot or shredding. They also are apt to contaminate flesh with bullet fragments, especially when the bullets hit bones. "Assault rifles were designed for fighting wars," not feeding families. Michael Shurkin, *A Brief History of the Assault Rifle*, RAND (June 30, 2016), https://perma.cc/VZA9-WYC3.

Accordingly, many states including Colorado, Connecticut, Delaware, Illinois, Iowa, Massachusetts, Nebraska, New Jersey, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Virginia, Washington, and Wyoming have passed restrictions on using the AR-15 to hunt large game such as deer, elk, moose, bighorn sheep, or bear.[8]

3. None of the other uses advanced by the parties immunizes AR-15 platform weapons from otherwise valid regulation. Most notably, the Solicitor General

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[8] *See* 2 Colo. Code Regs. § 406-2; Conn. Gen. Stat. § 26-86a; Del. Code Ann. tit. 7, § 704; 520 Ill. Comp. Stat. 5/2.25; Iowa Code § 481A.48; 321 Mass. Code Regs. 3.00; 166 Neb. Admin. Code § 001.01B2 (2026); N.J. Admin. Code § 7:25-5.15; Off. of the Governor of N.D., 2026-2027 Elk, Moose and Bighorn Sheep Proclamation (Mar. 2, 2026); Ohio Admin. Code 1501:31-15-11; Or. Admin. R. 635-065-0700; 34 Pa. Cons. Stat. § 2322; 250 R.I. Code R. § 060-00-9; S.D. Admin. R. 41:06:04:13; 4 Va. Admin. Code § 15-270-10; Wash. Admin. Code § 220-414-020; 040-0001-32 Wyo. Code R. § 4.

maintains that AR-15 platform weapons are suitable for "repelling invasions, suppressing insurrections, and resisting tyranny." U.S. Amicus Br. 25 (cleaned up).

Today, of course, these responsibilities are reserved for the United States military, which maintains trained professional armies across the globe. Certainly, this marks a dramatic shift from the founding, when there was a deep mistrust of standing armies, and colonists rightly feared the British soldiers quartered amongst them. *See* Quartering Act 1774, 14 Geo. 3 c. 54 (Gr. Brit.). *But cf.* U.S. Const. amend. III.

But the founders wisely struck a balance between the citizen-militia and the professional army, U.S. Const. art. I, § 8; *cf.* U.S. Const. amend. II-III, which allowed the fledgling nation to pragmatically reassess its view of national and domestic security "when new political, economic, technological, and strategic realities necessitated an abandonment of revered, but outmoded, military practices." William S. Fields & David T. Hardy, *The Militia and the Constitution: A Legal History*, 136 Mil. L. Rev. 1, 42 (1992).

This Court in *Heller* acknowledged the inevitable tension forged at the intersection of technological advancement and societal change:

> Indeed, it may be true that no amount of small arms could be useful against modern-day bombers and tanks. But the

> fact that modern developments have limited the degree of fit between the prefatory clause and the protected right cannot change our interpretation of the right.

Heller, 554 U.S. at 627-28.

Thus, while a law-abiding citizen might well claim that a machinegun is useful for repelling invasions, suppressing insurrections, and resisting tyranny, and may wish to train with the weapon for those purposes, this Court has recognized the lawfulness of the federal ban on machineguns irrespective of these purposes or their degree of use. *See id.* So too with regard to hand grenades, rocket launchers, and any number of other unusually dangerous weapons.

Undoubtedly, some Americans may enjoy owning AR-15s for use in target practice and other recreational activities.[9] But the Constitution generally leaves it to elected representatives to decide when enjoyable but dangerous products may be sold to the public. And the Second Amendment does not dictate otherwise for a militaristic weapon that is excessively dangerous and ill-suited for self-defense or hunting.

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[9] The only court of appeals to hold that the Second Amendment protects the right to possess AR-15s also reasoned that they were useful for "target shooting" and "pest control." *See ANJRPC*, 183 F.4th at 241-42. Neither Petitioners nor the Solicitor General advances those interests.

People are, of course, free to visit and live in communities that have more permissive approaches towards unusually dangerous firearms. But our Constitution and this Nation's historic record do not support removing firearm regulation from democratic processes when the safety of communities hangs in the balance.

CONCLUSION

For the foregoing reasons, this Court should affirm the judgment of the court of appeals.

Respectfully submitted,

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