

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 OF *AMICI CURIAE* AMERICAN ACADEMY OF
PEDIATRICS, AMERICAN COLLEGE OF PHYSICIANS,
NATIONAL MEDICAL ASSOCIATION, CONNECTICUT
STATE MEDICAL SOCIETY, CONNECTICUT CHAPTER,
AMERICAN ACADEMY OF PEDIATRICS, AND ILLINOIS
CHAPTER, AMERICAN ACADEMY OF PEDIATRICS
IN SUPPORT OF RESPONDENTS**

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INTEREST OF *AMICI CURIAE*

The American Academy of Pediatrics (“AAP”) is an organization of 67,000 pediatricians, pediatric medical subspecialists, and pediatric surgical specialists committed to the optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults.¹

The American College of Physicians (“ACP”) is the largest medical specialty organization and the second largest physician membership society in the United States. ACP’s members include 161,000 internal medicine physicians, related subspecialists, and medical students who apply scientific knowledge, clinical expertise, and compassion to the care of adults across the spectrum from health to complex illness.

The National Medical Association is the collective voice of African American physicians and the leading voice for parity and justice in medicine and the elimination of disparities in health.

The Connecticut State Medical Society is an association representing over 4,000 physicians, residents, and medical students in Connecticut. Its purposes include the promotion of public health and safety in Connecticut.

1. This brief was not authored in whole or in part by counsel for any party. No person or entity other than *amici curiae*, their members, or their counsel made a monetary contribution to the preparation or submission of this brief.

The Connecticut Chapter of AAP is an organization of over 600 pediatricians in Connecticut, dedicated to improving the health and safety of Connecticut's children and supporting those who provide their care.

The Illinois Chapter of AAP is an organization of over 2,000 pediatricians in Illinois, dedicated to improving the health and well-being of infants, children, and adolescents throughout Illinois.

Amici have a strong interest in these cases because their members witness how dangerous and unusual the military-style assault rifles like the AR-15 are and the enormous damage they inflict—the death, destruction, chaos, awful injuries, collateral damage, grief, suffering, and lifelong consequences. *Amici* respectfully submit this brief to offer the unique perspective of healthcare providers on the catastrophic effects of assault weapons on the human body, their patients, their communities, and their members. If victims of assault rifles survive long enough to make it to the hospital, their lives are in the hands of *amici's* members. The emergencies and trauma never end for them.

Amici's members understand the importance of protecting our constitutional rights. They include many individuals who grew up with and value the recreational use of firearms or own a firearm for self-defense.

But *amici's* members share the strong conviction, informed by their healthcare work and research, that assault rifles are fundamentally far more dangerous than other firearms sold to civilians. They are the type of weapon that may be banned pursuant to current

constitutional doctrine. The Second and Fourteenth Amendments do not prevent people, through their state or local legislatures, from protecting their communities by prohibiting AR-15s, and should not be interpreted to impose any such restrictions. A ruling that prevents such bans would have devastating consequences.

Amici respectfully submit that this is an appeal in which this Court’s decision will directly affect whether countless people live or die. It will be a legacy decision—not just for our children and grandchildren but for our grandchildren’s grandchildren.

SUMMARY OF ARGUMENT

The question presented is whether the Second and Fourteenth Amendments guarantee the right to possess dangerous and unusual military-style assault rifles like the AR-15. The Court should answer “no” and affirm the decisions below.

Point I presents firsthand experiences of just a few physicians who have treated victims of assault weapons, including both patients whose deaths and severe injuries do not receive extensive coverage in the media and those murdered or injured in some of the most infamous mass shootings.²

Point II explains why assault rifles are extraordinarily dangerous and unusual and a critical public health hazard.

2. The views of these physicians, expressed below, do not necessarily reflect the views of any entity with which they are or have been affiliated.

Point III shows the Constitution does not guarantee the right to possess AR-15s or other assault rifles. They are “like” the M-16, a weapon this Court has said can be banned. *District of Columbia v. Heller*, 554 U.S. 570, 627 (2008). They are “dangerous and unusual weapons.” *Id.*

ARGUMENT

I. PHYSICIANS HAVE FIRSTHAND KNOWLEDGE OF THE ENORMOUS HARM CAUSED BY ASSAULT RIFLES

A. Sandy Hook Elementary School and Dr. William Begg

In approximately five minutes on December 14, 2012, a shooter used an AR-15 to kill twenty first-grade children and six adults at Sandy Hook Elementary School in Connecticut. The AR-15 enabled the shooter to fire about 154 shots, almost one bullet every two seconds he was at the school.

Dr. Begg, the Endowed Chair of Emergency Medicine at Danbury and New Milford Hospitals, Chairman of the Board of Directors of the Newtown Health District, Clinical Assistant Professor in the Department of Surgery at the University of Vermont, and past recipient of the Dr. Mark Quigley Award for Connecticut EMS Physician of the Year, was the emergency physician on duty at Danbury Hospital and the EMS Medical Director in contact with the EMS personnel whose mission was to care for the victims.

But not a single child struck by a bullet at Sandy Hook survived. Most were not even sent to the hospital because of the horrific injuries they suffered. Those who did were dead on arrival. Each child was shot with between three and eleven high-velocity bullets. Because the bullets exploded in their little bodies, their organs were obliterated, leaving nothing to resuscitate. For example, Noah Pozner, age six, was shot once through his left thumb, once in his face, causing “almost complete destruction” of his jaw, and once in his back.³ “The bullet that struck Noah’s back crossed through the center of his chest, filling it with blood. It broke apart into fragments.”⁴

Dr. Begg will never forget this. He believes gun violence is a public health issue, and the people, through their elected representatives, should be able to choose to ban the AR-15 for civilians.

B. Dr. Selwyn Rogers’s and Dr. Edward Barksdale’s Treatment of Assault Weapon Victims in Chicago

Dr. Rogers, a trauma surgeon, and Dr. Barksdale, a pediatric surgeon, at the University of Chicago’s (“UChicago”) hospital, UChicago Medicine in the South Side of Chicago, treat victims of assault weapons on a

3. N. Kirkpatrick et al., *The Blast Effect: This is how bullets from an AR-15 blow the body apart*, WASH. POST (Mar. 27, 2023) (“Kirkpatrick”), https://www.washingtonpost.com/nation/interactive/2023/ar-15-damage-to-human-body/?itid=sr_0_018d0c76-3277-4fa0-b2c5-7b95f3dd7471.

4. *Id.*

regular basis and have seen how dangerous and unusual those weapons are.

Dr. Rogers, who received his B.A. and M.D. from Harvard, and was an Associate Professor of Surgery at its Medical School, Chair of Surgery at Temple University School of Medicine, and Professor of Surgery and Chief Medical Officer at University of Texas Medical Branch, is currently the James E. Bowman Jr. Professor in the Biological Sciences at UChicago, Chief of Trauma and Acute Care Surgery, Founding Director of UChicago's Level 1 trauma center, and Associate Editor of the New England Journal of Medicine. Dr. Barksdale, who received his B.S. from Yale and M.D. from Harvard, is a Professor of Surgery and Pediatrics at UChicago, Chief Surgical Officer of the Chicagoland Children's Health Alliance, and a past recipient of Yale's George Herbert Walker Bush '43 Lifetime Leadership Award.

Both grew up in households with guns. Dr. Rogers's stepfather owned a rifle to hunt deer. Dr. Barksdale's mother kept a pistol at home to protect her family. But both know from their experience treating victims of assault rifles, and their research, that those weapons are fundamentally different and unusually dangerous: they are weapons of war designed to kill and inflict mass casualties, not to hunt or protect.

Dr. Rogers has witnessed the proliferation of assault weapon violence from the operating table. Victims generally have multiple wounds, unlike handgun shooting victims, who generally have one or two bullet wounds. There are also far more victims of each assault weapon shooting. Because of the weapons' light weight and lack

of recoil, a novice or even a ten-year-old can empty a 30-round magazine in seconds, spraying a dozen or more people and killing or injuring even unintended targets. That would have been impossible with a musket at the time the Second Amendment was enacted because bystanders back then could have scattered after the first shot while the shooter reloaded. The damage assault weapons inflict is also extraordinarily different. They destroy flesh, shatter bones, and leave victims “unrecognizable.”

Dr. Barksdale has seen what assault weapons do to children. Their power is so great that everything in the path of their bullets is devastated. Blood vessels are clotted off even when they are not directly hit. He previously saw children struck by one or two bullets from a handgun. Now, the children he sees who were shot by assault weapons are struck by seven to ten bullets and have multiple cavities similar to those military surgeons in Iraq and Afghanistan have described. Many assault weapon victims die. Those who survive can face permanent paralysis and other lifelong debilitating injuries requiring, among other things, ventilators, tracheostomies, colostomies, and wheelchairs.

Both Dr. Rogers and Dr. Barksdale have observed that assault weapons do not just take lives—they take whole lifetimes. They eliminate the possibility of a family seeing a future for their child, and the ability of parents and siblings to have their own lives when they must care for permanently injured children. The damage they inflict extends far beyond the victims and their families to the very fabric of their communities.

This violence persists in Chicago despite the assault weapons bans because weapons are transported from Indiana, Wisconsin, and other states that do not ban them. But if Cook County's and Illinois's assault weapons bans were struck down, access to assault weapons would multiply and their toll would significantly increase.

C. Aurora Movie Theater and Dr. Barbara Blok

Dr. Blok, an Associate Professor of Emergency Medicine and Associate Program Director for the Denver Health Residency in Emergency Medicine, was on duty on the night of July 20, 2012, when a shooter used an AR-15 and other weapons to fire approximately seventy-six bullets, killing twelve people, and injuring seventy others at a movie theater in Aurora, Colorado.

Dr. Blok treated twenty-three of the victims that night. She saw the terrible destruction the AR-15 caused. Patients suffered massive wounds, large tissue loss, bowels hanging out of bellies, big wounds to the face and scalp, and organs destroyed. Unlike a traditional gunshot wound which follows the trajectory of the bullet, the injuries from the AR-15 were far more extensive and spread to surrounding tissue. Treating the victims had a profound effect on everyone who provided care. Their innocence was snatched away. Dr. Blok still feels grief and sadness when she thinks about that night.

Dr. Blok grew up on a farm with family members who used guns to hunt. She feels strongly that there is no civilian use for AR-15 assault rifles. They are unnecessary killing machines that serve no hunting purpose. The

Court should not accept Petitioners' request to remove the people's right to ban them.

D. San Bernardino and Dr. Kathleen Clem

Dr. Clem, a Professor at Dartmouth's Geisel School of Medicine, has worked as an emergency physician at Level 1 trauma centers for more than twenty years, and served as Chief Medical Officer and Vice President of Florida Hospital in Orlando, Florida, Associate Professor and Chief of the Division of Emergency Medicine in the Duke University Department of Surgery, and Chairman of the Level 1 Trauma Center Emergency Department at the Loma Linda University Medical Center. A recipient of the Duke University Distinguished Faculty Award and the American College of Emergency Physicians ("ACEP") Hero of Emergency Medicine Award, she was on duty as Director of the Loma Linda Emergency Department on December 2, 2015, when two shooters armed with AR-15-style military assault rifles and 9mm semiautomatic handguns entered the Inland Regional Center in San Bernardino, California, fired approximately 150 bullets, killed 14 people, and wounded 21 others.

The most seriously injured victims were brought to Dr. Clem's hospital. She was in charge of ensuring that the appropriate trauma teams were in place and oversaw the victims' treatment. She saw that the awful effects of the assault rifles were not confined to the victims who were shot. The entire community felt a fear and concern for their safety that shootings with other weapons had never caused.

Dr. Clem's husband owns guns and uses them for target shooting. Those guns are vastly different from the AR-15. The AR-15 is not designed for sport or self-defense. It is a weapon of war. It has no place in civilian hands.

E. Dr. Joanna Cohen's Pediatric Emergency Care

Dr. Cohen, a pediatric emergency physician at Johns Hopkins Children's Center and Associate Professor of Pediatrics at The Johns Hopkins School of Medicine, has worked as a pediatric emergency physician at Children's National Hospital in Washington, D.C. and published articles on firearm-related injury prevention.

In the last several years, Dr. Cohen has treated more children who were shot than at any time in her career. Patients have suffered devastating injuries including to their spinal cords. They are now (and likely forever) wheelchair bound, dealing with awful complications like infections. They must be cared for by family members whose lives are also forever changed by the additional burden and psychological injuries.

The appalling epidemic of firearm violence Dr. Cohen and her husband (also an emergency physician) witness every day makes them perpetually anxious for their children. They live in the city and are proud to be raising "city kids" who go outside and are active. But firearm violence is everywhere—including where their children and many other children live and play. So now, when her husband hears that an incoming patient is a shooting victim, he asks "where?," and then tries to determine whether his children are there.

Dr. Cohen believes, based on her personal experience treating firearm violence victims, that assault rifles have no place in civilian hands.

F. Dr. Michael Hirsh's Treatment of Assault Rifle Victims

Dr. Hirsh, the son of Holocaust survivors who met in a displaced persons camp, received his M.D. from Harvard in 1979 and completed his residency in general surgery at the Columbia Presbyterian Medical Center. Now retired, he worked in pediatric surgery, trauma, and critical care in Pittsburgh, before becoming a pediatric trauma surgeon in Worcester, Massachusetts and serving as Medical Director of its Department of Public Health.

When Dr. Hirsh's mentor and friend was shot to death outside their hospital after leaving to go home to his ill pregnant wife, Dr. Hirsh resolved to dedicate part of his life to addressing gun violence. A former president of the Injury Free Coalition for Children and the Worcester District Medical Society, he worked to remove assault weapons and other guns from his community through buyback programs. The Worcester program has collected more than 4,100 firearms and given out at least 1,200 trigger locks. Dr. Hirsh ran a similar program in Allegheny County that collected more than 13,000 guns in 29 years.

Dr. Hirsh has treated patients shot with an AK-47, a Russian assault weapon that can fire multiple rounds at high velocity, like the AR-15. When a person is shot, it wreaks havoc not just in the bullet's path, but in a large surrounding radius. As the bullet spins like a drill,

nearby tissue implodes, and organs turn to “goo.” When a blood vessel is hit with a lower velocity bullet, there is a possibility of repair. But the “blast effect” around the trajectory of rapidly fired high-velocity bullets can almost never be repaired. Because the bullets are not easily stopped, they hit other structures and can knock out swaths of tissue, amputate limbs, sever the spine, and transect the body. The bleeding these weapons cause is also far greater. Being shot is carnage in the truest sense of the word. Dr. Hirsh believes they should not be in civilian hands.

G. Tree of Life Synagogue and Dr. John Rozel

Dr. Rozel is a Professor of Psychiatry and Law at the Center for Bioethics and Health Law at the University of Pittsburgh. He teaches and consults on emergency psychiatry and violence prevention internationally. Dr. Rozel has published extensively on causes and prevention of firearm violence. He has responded to numerous mass-casualty events, including the October 27, 2018 mass shooting at the Tree of Life synagogue in Pittsburgh by a shooter who used an AR-15. Dr. Rozel oversees five crisis programs across Western Pennsylvania, including in high gun ownership and high gun crime communities. His efforts to develop programs to prevent serious acts of violence have earned him recognition from numerous national and international organizations.

Dr. Rozel’s research and experience refute the assertion that military-style assault rifles like the AR-15 do not threaten public safety. Their wide availability in states where they are legal can create dangerous situations. In his home state of Pennsylvania, they can be

transferred quickly and legally between private parties without a background check and without any oversight by authorities charged with keeping dangerous firearms out of the hands of unlawful possessors. The massive tissue damage they cause, combined with their accuracy, range, and magazine capacities, make the danger of injuries from assault rifles substantially greater than from other firearms.

Dr. Rozel believes that states should be able to ban the sale of assault rifles because their dangerous and unusual risks to public safety far exceed any notion of a safe harbor for weapons purportedly in “common use.”

H. Dr. Joseph Sakran’s Personal Gun Violence Experience

Dr. Sakran, a trauma surgeon, is the Executive Vice Chair of Surgery, Director of Clinical Operations, and Associate Professor of Surgery at Johns Hopkins Medicine.

Firearm violence is personal for Dr. Sakran. At seventeen, a stray handgun bullet ruptured his trachea and damaged his carotid artery. Based on his experience treating patients shot with assault weapons, he believes he would not have survived had his injury been caused by an AR-15. AR-15s fire bullets at many times the muzzle velocity of handguns. Because of the high energy they transfer into the body, as well as bullet tumbling, fragmentation, and cavitation, they cause massive tissue damage and rupture blood vessels well outside the bullet’s path. This horrific damage is compounded by their capacity for rapid fire. Victims are frequently struck

by multiple rounds, each inflicting catastrophic, often irreparable injuries. Many victims bleed out at the scene. The destruction is so extensive that families at times need DNA and clothing to identify their loved ones, particularly children. Those who survive face lifelong disabilities.

Dr. Sakran believes it is reasonable and necessary for state and local governments to be able to protect their communities by banning assault weapons.

I. Dr. Jeffrey Sankoff and the Collateral Societal Costs of Assault Rifles

Dr. Sankoff was an emergency medicine doctor at Denver Health Medical Center, the Level 1 trauma center for the Rocky Mountain region. He has treated victims of gun violence and is familiar with the AR-15.

Dr. Sankoff believes militarized weapons, such as the AR-15, have no place in a civilized society and should not be sold to civilians. These weapons are promoted based on false hypotheticals and appeals to emotion—that civilians need them for protection, including from the possibility of a tyrannical government. These promotions ignore the extraordinary societal costs of assault weapons.

The medical literature describes a “weapons effect”—the mere physical presence of a firearm may incite aggressive cognition and provoke violent behavior. Violence can also be infectious. Individuals may be inspired to emulate killers—a concept known as identification. And assault weapons advertisements can activate people who are predisposed to engage in violence but might not do so if they do not have access to those weapons.

The AR-15's ability to inflict mass casualties and consume resources also creates external costs. These costs are huge and transferred to others who do not make, sell, or use the weapons. For example, because civilians use assault weapons to cause enormous casualties, an ACEP task force considered how to import military strategies into the civilian sector to deal with the casualties. Active Shooter Plans designed to improve survival when there is an active shooter—also known as Code Silver emergency response plans—have proliferated since the Aurora and Newtown mass murders. They have been implemented in virtually every healthcare environment. These plans require not only administrative time for development, but regular training, drilling, and review by all hospital employees. The costs are enormous—hundreds of thousands of dollars for large institutions. Federal grants reimburse only a fraction. Most of the costs are borne by hospital operating budgets, derived from patient care.

J. Dr. Ronald Stewart and Mass Church and School Shootings

Dr. Stewart, a trauma surgeon in San Antonio, Texas, is a lifelong firearm owner and supports the Second Amendment.

Dr. Stewart's trauma teams cared for patients from two of the deadliest mass shootings in modern U.S. history—at the Sutherland Springs First Baptist Church on November 5, 2017, and the Uvalde Robb Elementary School on May 24, 2022. Dr. Stewart experiences nausea simply thinking about these events and their consequences. He revisits them only to give voice to his patients and their families, who bear horrific physical

and emotional scars—bodies, psyches, and lives forever altered. Dr. Stewart believes church and school shootings are a unique and destructive form of terror. They have a dramatic societal, community, and personal impact. They stoke fear, anger, and political division.

Dr. Stewart views the AR-15 class of firearms as highly dangerous, with significant offensive capability in mass attacks. They are hard to defend against due to their rapid-fire capability, minimal recoil, rapidly exchangeable high-capacity magazines, and power to destroy tissue at both close and medium distances. Once a shooter, even an unskilled attacker, gains access to an enclosed environment, the lethality for civilians is devastating, as the death tolls at Sutherland Springs and Uvalde demonstrate. Dr. Stewart believes we all bear collective responsibility for acts of mass violence. That is why he believes that the people, through their freely elected governments, should be able to regulate this class of firearms based on their best judgment, including up to and including a ban. He believes tolerating these mass shootings is not the cost of freedom, but rather the cost of freedom without responsibility.

K. Additional Accounts from Mass Shootings

1. Harvest Music Festival

On October 1, 2017, a shooter with assault weapons opened fire on the crowd attending the Route 91 Harvest music festival in Las Vegas, killing 60 and wounding 413 people in 10 minutes. Dr. Douglas Fraser, the chief of trauma surgery at the Southern Nevada University Medical Center, told the Washington Post that he and

other doctors “struggled” to deal with the large wounds that “shredded human flesh into ‘unusual patterns,’ caused ‘extreme fractures’ and bounced through bodies with horrific force.” He explained that “[s]o many wounds resembled those most often seen on battlefields that the hospital quickly contacted four Air Force trauma surgeons who happened to be participating in a visiting-fellow program there” because “[t]hey are used to seeing those things.”⁵

2. Parkland High School

On February 14, 2018, a shooter with an AR-15-style rifle entered Marjory Stoneman Douglas High School in Parkland, Florida, murdered fourteen students and three teachers, and wounded seventeen others.

Dr. Heather Sher, a radiologist who treated victims, described the aftermath in *The Atlantic*: a victim’s CT scan showed an organ that “looked like an overripe melon smashed by a sledgehammer.” “Nothing was left to repair [and so] [t]he injury was fatal.”⁶

5. Tim Craig, *As the Wounded Kept Coming, Hospitals Dealt with Injuries Rarely Seen in the U.S.*, WASH. POST (Oct. 3, 2017), https://www.washingtonpost.com/national/health-science/as-the-wounded-kept-coming-hospitals-dealt-with-injuries-rarely-seen-in-the-us/2017/10/03/06210b86-a883-11e7-b3aa-c0e2e1d41e38_story.html.

6. Heather Sher, *What I Saw Treating the Victims from Parkland Should Change the Debate on Guns*, THE ATLANTIC (Feb. 22, 2018), <https://www.theatlantic.com/politics/archive/2018/02/what-i-saw-treating-the-victims-from-parkland-should-change-the-debate-on-guns/553937/>.

Dr. Sher explained “[t]he high-velocity bullet causes a swath of tissue damage that extends several inches from its path. It does not have to actually hit an artery to damage it and cause catastrophic bleeding. Exit wounds can be the size of an orange.” While handgun injuries to the liver are “generally survivable,” an AR-15 bullet “cause[s] so much bleeding” the patient “likely never make[s] it to the trauma center.”⁷

The catastrophic injuries AR-15s cause are illustrated by the murder of Peter Wang, age fifteen, in the high school that day. Wearing his Army JROTC uniform, Peter was shot thirteen times while running down the hallway: “He was struck once in the foot, twice in the thigh, once in the torso, five times in his arms and, finally, four times in the head.”⁸ The following is a depiction of the entry and exit wounds to his head:

7. *Id.*

8. Kirkpatrick.



“The combined energy of those bullets created exit wounds so ‘gaping’ that the autopsy described his head as ‘deformed.’ Blood and brain splatter were found on his upper body and the walls. That degree of destruction ... is possible only with a high-velocity weapon.”¹⁰

9. *Id.*

10. *Id.*

3. Uvalde School

On May 24, 2022, a shooter with an AR-15-style assault rifle entered Robb Elementary School in Uvalde, Texas, murdered nineteen students and two teachers, and injured eighteen others.

Dr. Roy Guerrero, a Uvalde pediatrician, testified before Congress that he will “never get out of [his] head” the cries of mothers yelling their children’s names outside the hospital “as they begged for any news.” Searching for information on a patient, he entered the surgical area. He did not find his patient, but observed “two children whose bodies had been pulverized by bullets fired at them, decapitated, whose flesh had been ripped apart, that the only clue as to their identities was blood-spattered cartoon cloths still clinging to them, clinging for life and finding none.”¹¹

Dr. Lillian Liao, a pediatric trauma surgeon, told Nightline the four victims she treated had “large destructive wounds.” She explained that while “a handgun may create one small hole,” when a person is shot with a high-velocity firearm, “it looks like a body part got blown up.” And a high-velocity bullet is “more likely to hit major organs” of a small child and “will just destroy a significant portion of tissue.”¹²

11. *The Urgent Need to Address the Gun Violence Epidemic*, 117th Cong. 8-10 (2022).

12. Mary Kekatos, *Surgeon who treated kids shot in Uvalde describes assault weapons’ extreme trauma to victims’ bodies*, ABCNews (May 27, 2022), <https://abc7ny.com/post/texas-school-shooting-uvalde-tx-victims-assault-rifle/11898038/>.

II. Assault Rifles Are an Extremely Dangerous and Unusual Public Health Hazard

The AAP and other medical associations have long approached firearm injury as a public-health crisis requiring intervention at the individual, household, community, and policy levels.¹³ Every day physicians witness this crisis firsthand. But not all firearms pose the same danger.

Chief among the most dangerous and unusual firearms are AR-15s and other assault weapons. They are the weapons of choice for mass murderers.¹⁴ Studies show that, in the last 50 years, their use in mass shootings has tripled, the number of deaths in such shootings has increased by more than 50%, and they account for a higher share of guns used in mass murders, murders of police, and mass public shootings.¹⁵ The reason is clear: assault rifles are military weapons designed to kill as many people

13. Lois Lee et al., *Firearm-Related Injuries and Deaths in Children and Youth*, 150 PEDIATRICS 6, e2022060070 (2022); Press Release, AMA Calls Gun Violence “A Public Health Crisis”, AMA (June 14, 2016), <https://www.ama-assn.org/press-center/ama-press-releases/ama-calls-gun-violence-public-healthcrisis>.

14. LOUIS KLAREVAS, RAMPAGE NATION: SECURING AMERICA FROM MASS SHOOTINGS 196, 220 (2016) (“KLAREVAS”); Christopher S. Koper et al., U. Penn. Jerry Lee Ctr. of Criminology, An Updated Assessment of the Federal Assault Weapons Ban, 87 (2004).

15. James Densley & Jillian Peterson, *Assault Weapon Platform Lethality in US Mass Public Shootings 1966–2025*, SCI REP (2026); Mayors Against Illegal Guns, Mass Shootings Since January 20, 2009, 1 (2013), https://www.washingtonpost.com/blogs/wonkblog/files/2013/02/mass_shootings_2009-13_-_jan_29_12pm1.pdf.

as possible in as little time as possible. The examples in Point I are illustrative.

A. AR-15s Are Weapons of War that Inflict Mass Casualties

In the 1950s, at the request of the U.S. military, ArmaLite created the first prototype of the AR-15 after studies showed its potential to cause maximum carnage without skilled marksmanship.¹⁶ The military renamed the AR-15 the M-16 and used it for combat in the Vietnam War.¹⁷

Although Colt began marketing them to civilians,¹⁸ AR-15s and other assault rifles remain “exceptionally lethal weapons of war.”¹⁹ As one of the prosecutors of the Aurora shooter explained: “It’s a great gun for killing lots of people really quickly.” “That’s why these guys use it. That’s why the Army uses it.”²⁰ It is “[b]uilt to generate maximum wound effect” and “designed to empower an individual soldier to kill as many people in as little time

16. KLAREVAS at 196, 207; *Semi-automatic Assault Weapons*, Violence Policy Ctr. (2003), <http://www.vpc.org/studies/hosefive.htm>.

17. *Kolbe v. Hogan*, 849 F.3d 114, 124-25 (4th Cir. 2017), *partially abrogated on other grounds by New York State Rifle & Pistol Assoc., Inc. v. Bruen*, 597 U.S. 1 (2022).

18. KLAREVAS at 192, 225.

19. *Kolbe*, 849 F.3d at 124.

20. CAMERON McWHIRTER & ZUSHA ELINSON, *AMERICAN GUN: THE TRUE STORY OF THE AR-15* 265 (2023).

as possible”²¹ through a combination of design features including:

- high muzzle velocity;²²
- lightweight bullets that tumble (“yaw”) and fragment on impact;²³
- mechanisms that substantially reduce recoil and muzzle rise, enabling successive shots that are faster and more accurate than is possible with a high-powered rifle, and allowing the weapon to remain on target between trigger pulls;²⁴
- ergonomic features enhancing stability and control during sustained fire;²⁵
- light overall weight, allowing greater stability, prolonged aiming, and shooting with reduced fatigue;²⁶

21. *Bianchi v. Brown*, 111 F.4th 438, 455, 463 (4th Cir. 2024).

22. *Id.* at 455; Report of Dr. Martin Schreiber, *Viramontes v. County of Cook*, No. 1:21-cv-04595 (N.D. Ill. Mar. 3, 2023), Doc. No. 81-15 (“Schreiber”), at 2.

23. *Bianchi*, 111 F.4th at 455; *Barnett v. Raoul*, 180 F.4th 1035, 1053-54 (7th Cir. 2026).

24. *Capen v. Campbell*, 134 F.4th 660, 673 (1st Cir. 2025); *Bianchi*, 111 F.4th at 455-56.

25. *Bianchi*, 111 F.4th at 455.

26. *See* Pet. Br. at 2.

- an effective range of “about 500 yards, compared to just 50 yards for a 9mm handgun”;²⁷
- semiautomatic action, enabling a trained shooter to fire up to 180 rounds per minute and an untrained shooter to fire 45-60 rounds per minute;²⁸
- detachable 30-round magazines, allowing a shooter to swap an empty magazine in “three seconds” and continue firing with minimal interruption;²⁹ and
- a highly modular and customizable platform that can be readily configured to increase lethality, such as through the addition of bump stocks, high-capacity magazines, and conversion kits that render the weapon fully automatic.³⁰

These features maximize not only the lethality of each round, but also the number of shots that can strike each victim and the number of victims who can be struck in a single incident. *See Bianchi*, 111 F.4th at 456 (“Between its firepower, accuracy, and modifiability, the net effect of the AR-15’s military combat features is a capability for

27. *Barnett*, 180 F.4th at 1053.

28. *Nat’l Ass’n for Gun Rights v. Lamont*, 153 F.4th 213, 241 n.27 (2d Cir. 2025); *Garland v. Cargill*, 602 U.S. 406, 433 (2024) (Sotomayor, J., dissenting).

29. *Lamont*, 153 F.4th at 238; *Barnett*, 180 F.4th at 1055.

30. *See Bianchi*, 111 F.4th at 456.

lethality.”); *Kolbe*, 849 F.3d at 125 (“Their design results in a capability for lethality—more wounds, more serious, in more victims—far beyond that of other firearms in general, including other semiautomatic guns.”).

B. AR-15s Are Highly Lethal and Inflict Catastrophic Injuries

The public health dangers of allowing civilians access to assault rifles are obvious. Dr. Christopher Colwell, an emergency physician who has treated “over a thousand patients with gunshot wounds,” provided a declaration in *Viramontes* below that explains that “while all weapons pose risk, assault weapons pose a far greater risk to the public from a medical care standpoint.”³¹ *See also* Point I. The lives that will be saved if states and cities can continue to ban them are precious.

The AR-15 fires rounds at approximately 3,200 feet per second—nearly three times the velocity, and with more than three times the kinetic energy, of a 9mm handgun bullet.³² Upon impact, high-velocity rounds create a “temporary cavity” or “blast wave” that can be “up to 11-12.5 times larger than the bullet itself.”³³ This “cavitation” effect, combined with bullet fragmentation and tumbling, “produce[s] large wounds out of all proportion to [the bullet’s] small caliber.”³⁴

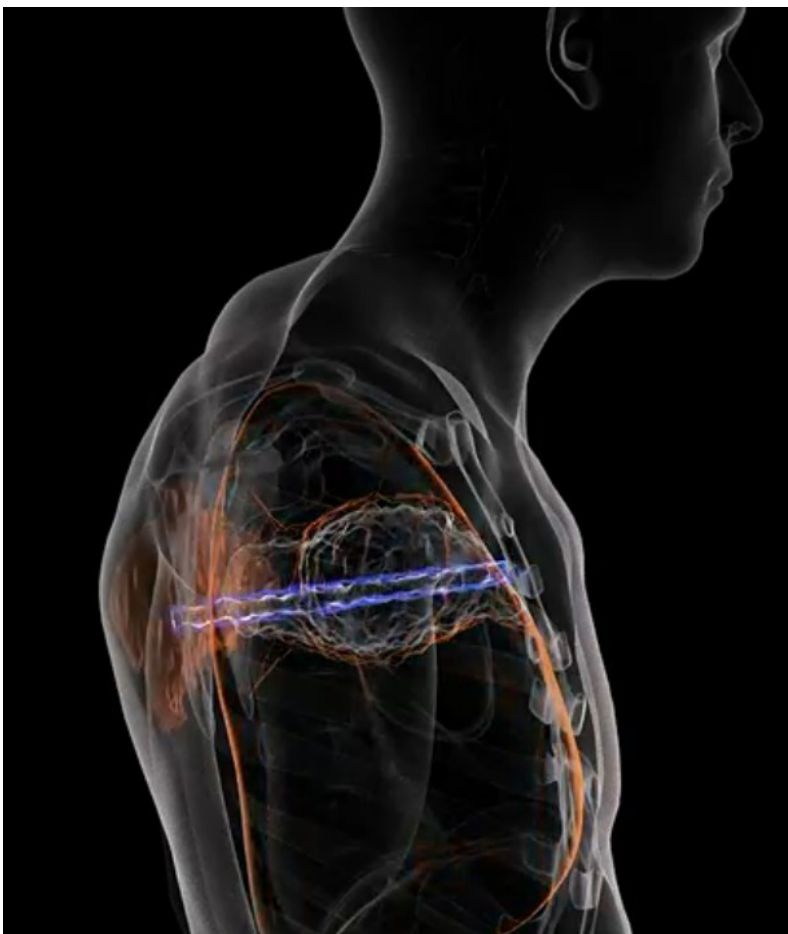
31. Doc. No. 81-13 at 3 (“Colwell”).

32. *Bianchi*, 111 F.4th at 454-55; Schreiber at 2.

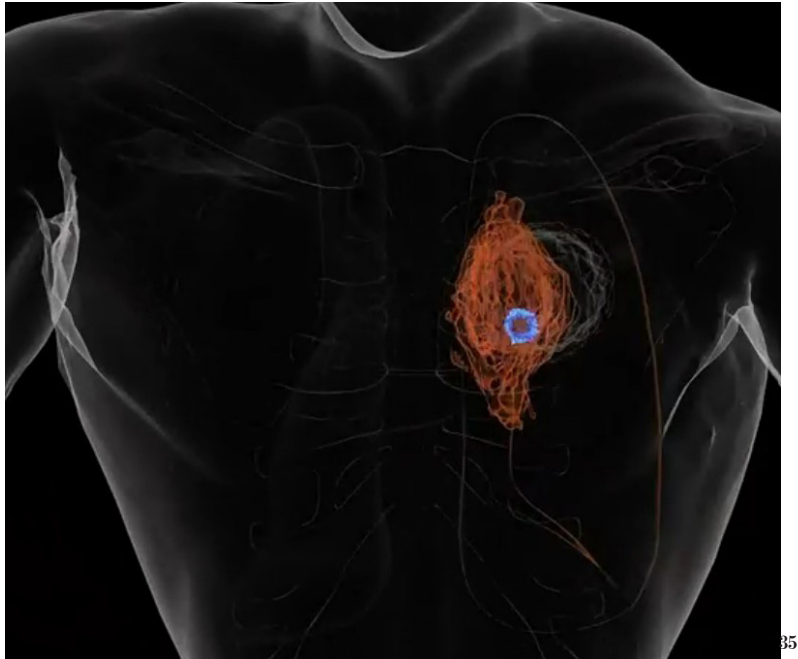
33. *Bianchi*, 111 F.4th at 455; *see also* P. Rhee et al., *Gunshot Wounds: A Review of Ballistics, Bullets, Weapons and Myths*, 80 J. TRAUMA ACUTE CARE SURG. 853, 863-64 (2016) (“Rhee”).

34. P. Stefanopoulos et al., *Wound Ballistics of Military Rifle Bullets*, 87 J. TRAUMA ACUTE CARE SURG. 690, 695 (2019)

The following illustrations compare the path and exit wounds of an AR-15's high-velocity round with a 9mm handgun bullet (in blue) fired from the same distance:



(“Stefanopoulos”); *see also* P. Stefanopoulos et al., *Gunshot Wounds: A Review of Ballistics Related to Penetrating Trauma*, 3 J. ACUTE DISEASE 178, 181-82 (2014); *Bianchi*, 111 F.4th at 455; *Barnett*, 180 F.4th at 1054-55.



The damage an AR-15 causes is “rarely visible to the public.”³⁶ The media generally choose not to publish photos because they are “too gruesome.” They rely on “antiseptic” descriptions.³⁷ As a result, many people do not understand the horrors these weapons produce.

But the injuries are catastrophic. The damage is magnified by the likelihood that victims will be shot more than once.

An AR-15 causes injuries “such as multiple organs shattered, bones exploded, and soft tissue absolutely

35. Kirkpatrick.

36. *Id.*

37. *Id.*

destroyed” that “often cannot be repaired by trauma surgeons.”³⁸ “Organs such as the liver, spleen, kidney, and brain ... are likely to split or shatter because of the development of the temporary cavity.”³⁹ A high-velocity bullet from an assault rifle “will literally pulverize the liver, perhaps best described as dropping a watermelon onto concrete.”⁴⁰

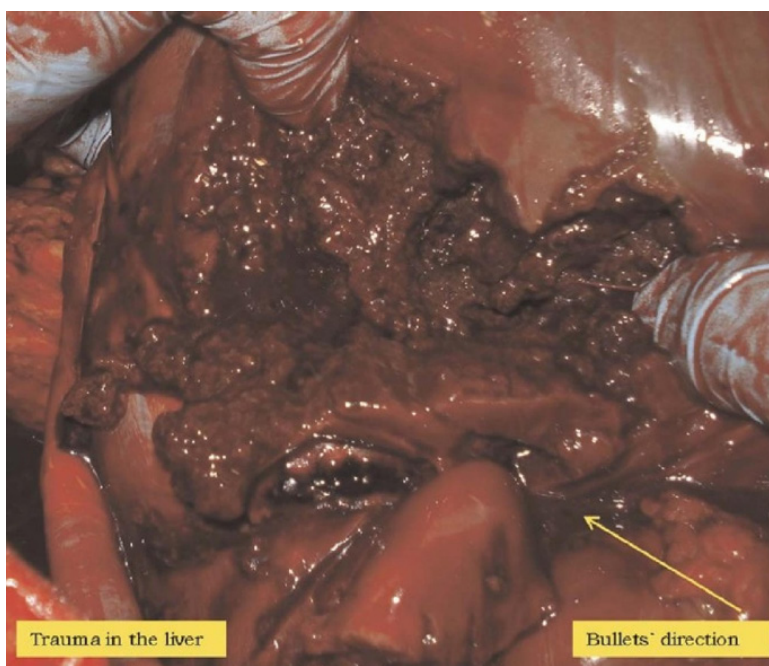


Figure 2. Liver injury by an AK-47 rifle inflicted at close range. This postmortem photograph illustrates the extensive permanent damage produced by cavitation in the inelastic organ.

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38. *Bianchi*, 111 F.4th at 455; *accord Capen*, 134 F.4th at 673.

39. *Rhee* at 864.

40. *Bianchi*, 111 F.4th at 455.

41. *Stefanopoulos* at 692.

Dr. Jeremy Cannon of the University of Pennsylvania’s Perelman School of Medicine explained, “[t]he tissue destruction is almost unimaginable ... it’s like a bomb went off.”⁴² Dr. Mark Kline, the physician-in-chief at Children’s Hospital New Orleans, put it similarly: the “explosive power and velocity from the projectiles ‘disintegrate organs,’ and ‘there’s nothing left to repair.’”⁴³

Assault rifle wounds to the head, neck, or trunk “are usually lethal.”⁴⁴

42. Gina Kolata & C.J. Chivers, *Wounds From Military-Style Rifles? “A Ghastly Thing to See”*, N.Y. TIMES (Mar. 4, 2018), <https://www.nytimes.com/2018/03/04/health/parkland-shooting-victims-ar15.html>.

43. Jennifer Henderson, *“There’s Nothing to Repair”*: *Emergency Docs on Injuries From Assault Weapons*, MEDPAGE TODAY (May 31, 2022) (“Henderson”), <https://www.medpagetoday.com/special-reports/exclusives/98982>.

44. Schreiber at 2.



Figure 13. A, Gunshot wound to the posterior neck with large tissue defect. B, Wound with surgeons hand in it.

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Blasts to the extremities “frequently result in amputations.”⁴⁶ Dr. Colwell explained that he was able to “treat ... and release” a patient shot in the elbow with a

45. Rhee at 863-64 (“High-velocity rounds are much more likely to have significant cavitation injury (Fig. 13).”).

46. Schreiber at 2.

handgun in just “hours,” while a patient shot “in the exact same spot with an AK-47” three months earlier had to have his arm amputated due to the “extensive damage to the bone and soft tissues.”⁴⁷

Assault weapon wounds are “higher in quantity and complexity with higher complication rates” than those from non-assault weapons.⁴⁸ Patients “tend to have wounds and injuries that are far more extensive, requiring more extensive repair or more likely to be unrepairable.”⁴⁹ They “frequently have multiple organs injured,” “require massive blood transfusions,” and “require a series of operations instead of just one as is common with handguns.” Survivors “require prolonged hospitalizations” and “suffer much greater disability which frequently persists for the rest of their shortened lives.”⁵⁰

The catastrophic effects are even more devastating for a child. Assault rifles are more likely to kill or cause serious damage to children because they have smaller torsos, relatively more compressed/adjacent vital organs, and smaller blood reserves.⁵¹ Not a single child shot at Sandy Hook survived. In Uvalde, the mortality rate for

47. Colwell at 3.

48. *Id.*

49. *Id.* at 2.

50. Schreiber at 2.

51. Report of Dr. Stephen Hargarten, *Viramontes*, Doc. No. 81-14, ¶ 15; Dr. Hargarten Report and Declaration, *Barnett v. Raoul*, 3:23-cv-00209 (S.D. Ill. May 10, 2024), Doc. No. 185-3 (“Hargarten”), ¶¶ 45-48.

children was 80%.⁵² “When you have a child that is hit with between three and 11 high-capacity bullets that explode inside their body, ‘it’s not a survivable event.’”⁵³

AR-15s also inflict harm beyond their immediate victims. They put significant strains on hospitals and EMS systems. When a mass shooting occurs, prehospital and hospital providers must triage the victims, prioritizing some over others and limiting the resources available to each. And because assault rifles are designed to shoot as many people as many times as possible, shootings with those weapons are “far more likely to require [hospitals and doctors] to go into disaster mode and limit[] what [they] can do for others” who were not shot.⁵⁴

Moreover, as Dr. Sankoff explains above, assault rifles impose enormous societal costs, including financial costs, on hospitals and others.

Assault rifles also inflict a huge psychological toll on victims, their families, their communities, first-responders, and healthcare providers. *See* Point I.

III. AR-15s and Other Assault Rifles Fall Outside the Second Amendment’s Protection

The Court announced in *Heller* that the Second Amendment codified a pre-existing right to keep and bear arms, but that right is “not unlimited” and does

52. Hargarten ¶ 48.

53. Henderson (quoting Dr. Begg).

54. Colwell at 2-3.

not include a right to “keep and carry any weapon whatsoever.” *Id.* at 595, 626. The Court interpreted *United States v. Miller*, 307 U.S. 174, 179 (1939), as holding that “the *type of weapon* at issue [a short-barreled shotgun] was not eligible for Second Amendment protection” and stands for the proposition that “the Second Amendment right, whatever its nature, extends only to certain types of weapons.” *Heller*, 554 U.S. at 622-23. The Court has repeatedly reaffirmed this. *See Wolford v. Lopez*, 609 U.S. 185, 193 (2026); *United States v. Rahimi*, 602 U.S. 680, 690-91 (2024); *Bruen*, 597 U.S. at 21; *McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010) (plurality decision).

“Now, as then, States may regulate the keeping and bearing of arms so long as they do not ‘infring[e]’ the right, as originally understood.” *Wolford*, 609 U.S. at 216 (Barrett, J., concurring). “To determine when a modern regulation crosses the line, [the Court] assess[es] whether it comports with ‘the Nation’s historical tradition of firearm regulation.’” *Id.* (quoting *Bruen*, 597 U.S. at 24).

A. Assault Rifles “May Be Banned” Because They Are “Like” M-16s

Heller identified “M-16 rifles and the like” as “the type[s] of weapon[s]” that are not protected by the Second Amendment and “may be banned.” 554 U.S. at 621-22, 627. The AR-15 is not merely “like” the M-16. It “is the civilian version of the military’s M-16 rifle.” *Staples v. United States*, 511 U.S. 600, 603 (1994). Other assault rifles fall within *Heller*’s “and the like” category.

The difference between an automatic and semiautomatic assault rifle is “slight” because “the automatic firing of all

the ammunition in a large-capacity thirty-round magazine takes about two seconds, whereas a semiautomatic rifle can empty the same magazine in as little as five seconds.” *Kolbe*, 849 F.3d at 125.

The difference is also slight because the U.S. Army Field Manual identifies semiautomatic fire as “[t]he most important firing technique during fast-moving, modern combat.” *Bianchi*, 111 F.4th at 456 (quoting U.S. Army FM 3-22.9, at 7-8 (Aug. 12, 2008)). Indeed, the “U.S. Marine Corps discarded the M-16’s fully automatic function in favor of a maximum setting of a three-round burst to enhance lethality by improving accuracy.” *Lamont*, 153 F.4th at 241 (internal quotations omitted).

As the Fourth Circuit put it, “the AR-15—with its military origination, combat-functional features, and extraordinary lethality—has the same basic characteristics, functionality, capabilities, and potential for injury as the M16.” *Bianchi*, 111 F.4th at 459.

B. Assault Rifles May be Banned Because They Are “Dangerous and Unusual Weapons”

Assault rifles may be banned for the additional reason that they are “dangerous and unusual weapons.” The Court has recognized “the historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons.’” *Heller*, 554 U.S. at 627.

As shown in Points I and II, they are weapons of war that have the capacity to kill or catastrophically wound many people in a short time. They may therefore be banned for civilian use consistent with our Nation’s

historical tradition of prohibiting weapons “whose danger and lethality stand out.” *Barnett*, 180 F.4th at 1047 (using labels such as “dangerous and unusual,” “unusually dangerous,” “especially dangerous,” and “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”); *see also Lamont*, 153 F.4th at 233 (“dangerous and unusual” was “traditionally understood as meaning ‘unusually dangerous’” by readers in “the Founding era”). There is also a history of government regulations to prevent mass violence by armed individuals and to ban technologies with dangerous externalities disproportionate to their utility for self-defense.⁵⁵

Assault rifles may also be prohibited under the “more nuanced approach” permitted by *Bruen* for cases “implicating unprecedented societal concerns or dramatic technological changes.” 597 U.S. at 27. Assault weapons are vastly more dangerous than any firearm available when the Second Amendment was adopted. *See Barnett*, 180 F.4th at 1055-56 (“AR-15s equipped with large-capacity magazines are a far cry from these antecedents.”); *Lamont*, 153 F.4th at 237-38 (comparing AR-15s to flintlock muzzle-loading firearms).⁵⁶

55. Darrell Miller et al., *Lethality and the Historical Principles of Arms Regulation*, at 31-41, Public Law and Legal Theory Working Papers (2026) (“Miller”), https://chicagounbound.uchicago.edu/public_law_and_legal_theory/986, at 31-41.

56. *See also* Miller at 22-31, showing AR-15s are vastly more lethal than Revolutionary and Civil War rifles: “a single person with an assault rifle has the same lethal capacity today as six to eight armed individuals with Civil War era rifles and fifteen to

As the weapon of choice for mass shootings, assault rifles represent an unprecedented public health hazard. *See* Points I and II. There is “growing societal concern over and fear of mass shootings resulting in ten or more fatalities”; “[t]he Founders faced no problem comparable to a single gunman carrying out a mass murder in seconds.” *Lamont*, 153 F.4th at 239-40.

The right to keep and bear arms, as “originally understood,” did not include the right for civilians to possess something as destructive and chaotic as the AR-15. State and local governments today face a “regulatory challenge[]” unlike “those that preoccupied the Founders in 1791 or the Reconstruction generation in 1868.” *Bruen*, 597 U.S. at 27.

C. The Counting Exercise Proposed by Petitioners Is Untenable

Petitioners’ attempt to force states and local authorities to permit assault rifles through a counting exercise based on “common use” today is not supported by this Court’s decisions. Neither *Heller* nor *Bruen* “posit[ed] that a weapon’s common use is conclusive evidence that it cannot be banned;” “weapons that are *not* in common use can safely be said to be *outside* the ambit of the Second Amendment. But the logic does not work in reverse. Just because a weapon happens to be in common use does not

nineteen individuals armed with a Revolutionary-era flintlock rifle.” And since they did not exist when the Second Amendment was enacted, they cannot infringe the right “as originally understood.”

guarantee that it falls within the scope of the right to keep and bear arms.” *Bianchi*, 111 F.4th at 459-61.

Nor can a weapon’s dangerousness be dismissed as constitutionally irrelevant. While all firearms are “dangerous” to some degree, it does not follow that courts may disregard differences in the magnitude of that danger when determining whether a weapon is the “type of weapon” protected by the Second Amendment. This Court should not be blind to the vast differences between the handguns at issue in *Heller* and the assault rifles at issue here.

Petitioners appear to acknowledge that “unusually dangerous” weapons fall outside the Second Amendment’s protection. Yet they define “unusually dangerous” by reference to purported “common use,” making the inquiry entirely circular. (Pet. Br. 25 (“[B]y definition, an arm in common use cannot be unusually dangerous.”)). Under this reasoning, no weapon, however destructive, could ever be deemed “unusually dangerous” so long as it is in “common use.”

Petitioners’ attempts to minimize the danger of AR-15s are also unavailing. They note that some states prohibit .223 caliber rifles for hunting large game “because their rounds lack sufficient power,” and assert that assault rifles are “not inherently more dangerous than other comparable firearms” because they “do not operate differently than other semiautomatics.” (Pet. Br. 9, 49). But the AR-15 was engineered to maximize human casualties in combat, not to take large game. *See Bianchi*, 111 F.4th at 451, 454-55, 463. And its extraordinary lethality derives from the combination of its design features—not merely

its ammunition or its semiautomatic action. The fact that an AR-15 and a Glock 19 handgun are both semiautomatic does not make them equally “dangerous.” *See Kolbe*, 849 F.3d at 125.

Petitioners’ proposed “common use” test is also unworkable. They contend the “American people,” not “judges,” should decide whether a weapon is constitutionally protected. (Pet. Br. 25). But under their framework, judges would still determine whether a weapon qualifies as in “common use.” And because there are nearly unlimited metrics by which that determination could be made, Petitioners’ proposal would vest in judges, not the “American people,” extraordinary discretion to decide whether a weapon is protected.

Petitioners’ popularity test also would yield absurd results. For example: States might be permitted to ban “spears” but not AR-15s (*see* Brief of United States at 17), even though assault rifles are vastly more destructive than any bladed weapon. And a ban on a weapon could become unconstitutional if a “sufficient” number of people illegally acquire that weapon, even if a far greater number choose not to do so.

Nor have the “American people” made any collective “decision” that AR-15s are not “dangerous and unusual.” (*See* Pet. Br. 25, 31). The legislatures of eleven states and the District of Columbia—representing 118 million people—have enacted assault weapons bans.⁵⁷ The bans

57. Everytown Research & Policy, *Which states prohibit assault weapons?*, <https://everytownresearch.org/rankings/law/assault-weapons-prohibited/>.

reflect the judgment of those electorates that such weapons should not be in “common use” in their jurisdictions. And many people in the other states have decided not to own assault weapons.

It is Petitioners, not Respondents, who seek to wrest the “decision” on assault weapons from the people and give it to this Court. But as Judge Wilkinson explained, the Second Amendment “has not disabled the ability of representative democracy to respond to an urgent public safety crisis.” *Bianchi*, 111 F.4th at 472. Nor does it “require courts to turn their back to democratic cries ... at the very moment that lethal technologies are proceeding at an accelerated and indeed unprecedented pace.” *Id.* at 472-73. “Disenfranchising the American people on this life and death subject ... would deliver a body blow to democracy as we have known it since the very founding of this nation.” *Kolbe*, 849 F.3d at 150 (Wilkinson, J., concurring).

Affirming the decisions below would preserve the status quo. Individuals in states that permit assault rifles would remain free to possess them. Assault rifles would be prohibited only in jurisdictions whose electorates have democratically chosen to enact such prohibitions. Conversely, if the Court holds that the Second Amendment guarantees the right to possess assault rifles based on a flawed interpretation or purported popularity test, it would override the democratic choices of the people in the states that have banned these weapons and the people in the other states who would like to do so.

CONCLUSION

The decisions below should be affirmed.

Respectfully submitted,

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